
MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D1-8.1 Criminal Investigation Unit
Responsibilities and Actions

August 4, 2003

Gary B. Kempker, Department Director Effective Date

- I. PURPOSE: This procedure establishes guidelines concerning the scope and depth of investigations in the department. All investigations will conform to uniform standards and consistency in investigating techniques and reporting. The investigation focus will encompass all violations of criminal law. Investigations conducted outside the scope of criminal law will be limited to events that may endanger the safety and security of offenders, facilities, and employees or the public or which are sufficiently complex to require the skills of a trained investigator.
- A. AUTHORITY: Section 217.025, 217.040, 217.405 and 217.410 RSMo.
- B. APPLICABILITY: This procedure applies to all employees and offenders of the department. Employees whose classifications are covered by a bargaining unit may have additional or alternate processes as required by that bargaining unit's agreement.
- C. SCOPE: Nothing contained in this procedure shall be construed to grant to any employee or offender any right to an investigation or to hear charges against her/him.
- II. DEFINITIONS:
- A. Administrative Inquiry: An inquiry conducted by an employee's supervisor or staff assigned by the chief administrative officer when an allegation has been made, or information exists that indicates an employee has committed an act included in, or similar to, category I behaviors.
- B. Behaviors:
1. Category I Behaviors: Behaviors generally related to employee performance or job misconduct, performance,

attendance or attitude which may reasonably be addressed by supervisory staff.

a. Category I behavior would normally include, but not be limited to:

- (1) general performance issues,
- (2) unsatisfactory performance,
- (3) abuse of sick leave,
- (4) time/attendance issues,
- (5) inattention to duty,
- (6) verbal abuse of staff and/or offenders,
- (7) disobedience/insubordination,
- (8) discourteous conduct,
- (9) retaliation against staff and/or offenders,
- (10) misuse of state property,
- (11) under influence of alcohol/drug,
- (12) off duty misconduct.

2. Category II Behaviors: Employee conduct that:

a. contains elements outside the scope of category I behavior and may require the skills of a trained investigator which may include, but not be limited to:

- (1) avoidable contact or association with an offender,
- (2) improper use of force, or
- (3) results in a violation of criminal law.

C. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

- a. Deputy Director
- 2. Department Sections in the Director's Office:
 - a. Deputy Director
 - b. Central Office Section Heads
- 3. Division of Probation and Parole:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Regional Administrators
 - e. District Administrators
- 4. Division of Adult Institutions:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Assistant to Division Director
 - d. Superintendents
- 5. Division of Offender Rehabilitative Services:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Central Office Section Heads
- 6. Division of Human Services:
 - a. Division Director
 - b. Central Office Section Heads
- D. Criminal Investigation Unit: A unit of investigators established for the primary purpose of investigating criminal acts suspected or known to have occurred within the operations of the department. The unit will have authority to investigate all matters or events established by procedure and will work closely with other criminal justice agencies during the performance of the investigation process.
- E. Employee: Any person who is employed by the department including:
 - 1. persons who are contracted to provide services (i.e., medical services, mental health services, education services, substance abuse services, etc.),
 - 2. part-time employees (i.e., regular status employees who work less than 40 hours, college instructors, etc.),
 - 3. volunteer/student interns and temporary employees, and

4. other persons who are issued a permanent department identification card or volunteer/student intern identification card.
- F. Inspector General: A person serving as administrator over the criminal investigation unit and compliance unit of the department.
 - G. Investigation: A review conducted by an investigator when an allegation has been made, or information exists that indicates an employee has committed an act included in, or similar to, category II behaviors.
 - H. Investigation Manager: A person with the responsibility for supervising and managing the criminal investigation unit of the department.
 - I. Investigator: A person who performs investigations at the regional or statewide level.
 - J. Major Incident Investigation Team: A group of 6 or more investigators who are assigned to investigate any incident within the department.
 - K. Offender Abuse: When an employee knowingly injures any offender by beating, striking, kicking, wounding or by sexual contact with the offender. This does not include authorized uses of force as permitted by department and divisional procedures.
 - L. Regional Investigation Supervisor: A person who supervises the criminal investigation unit within a region.
 - M. Warrant Application: A document completed and signed by a member of the criminal investigation unit and submitted to the county prosecuting attorney for consideration of filing criminal charges against a person.

III. PROCEDURES:

- A. Americans with Disabilities Act: If any investigation reveals that a situation/complaint is related to this act, the investigator will consult with this program's site coordinator. Americans with Disabilities Act complaints and investigations will be conducted in accordance with D2-10.1 Employee/Management Grievance and D5-3.2 Offender Grievance.
- B. Behaviors: Employees who believe they have been subjected to sexual or other harassment are responsible for informing their immediate supervisor, a personnel representative, or the human relations officer for their area in accordance with D2-11.4 Sexual and Other Harassment.

C. While an investigation is pending, employees who are interviewed (and their representatives) may not disclose any matter that was discussed during an interview that occurred as part of an investigation.

D. Category I Behaviors:

1. Category I behavior will be addressed in accordance with D1-8.4 Administrative Inquiries.
2. Some incidents may require further investigation to fully determine the nature and complexity of the alleged offense.
 - a. In these cases the chief administrative officer and regional investigation supervisor shall review and evaluate the incident and communicate to determine the appropriate course of action.
 - b. The primary focus shall be to determine the extent of the misconduct and the necessity to conduct a category I inquiry or category II investigation.
 - c. Should the chief administrative officer and regional supervisor disagree on the category of the incident as to how it should be handled, each will refer to the next level in the chain of command for further determination.

E. Category II Behaviors:

1. Allegations of category II behaviors will normally be investigated by an investigator assigned to the criminal investigation unit.
2. Allegations of category II behaviors shall be submitted for review by forwarding a written Request for Investigation (Attachment A) to the regional investigation supervisor.
 - a. The primary focus shall be to determine the extent of the misconduct and the necessity to conduct a category I inquiry or category II investigation.
3. If a criminal law violation is suspected, the law enforcement agency with jurisdiction will be notified by the investigator. The investigation may continue as long as it does not interfere with the law enforcement investigation.
4. If the behavior appears to be a violation of criminal law, the chief administrative officer/designee will

notify the division director of the incident and the law enforcement agency having jurisdiction in the incident, when appropriate.

5. The department major incident investigation team may be activated as coordinated through the inspector general/designee's office.

F. Investigation Requests:

1. The department director may initiate an investigation involving a staff person, an offender or any incident or situation in any of the divisions within the department.
2. The department director/designee may request an outside agency to investigate any department employee or incident. The inspector general will be notified of such a request when possible and when appropriate.
3. The inspector general/designee (investigation manager) may initiate an investigation of a suspected violation involving a staff person, an offender or any incident or situation in any of the divisions within the department.
4. The division director may request investigative assistance from the investigation manager or the inspector general.
5. The chief administrative officer may request an investigation.
 - a. The division director/designee will complete the Inspector General Investigation Tracking Report (Attachment B) and submit it to the inspector general within 20 working days of the receipt of an investigation.
 - b. Any requests for extension will be submitted on the Inspector General Investigation Tracking Report to the office of the inspector general for approval or disapproval.
 - c. The general information at the top of the form will be completed, as will the information requested in the extension request block. The chief administrative officer will provide detailed documentation why action on the case has not been accomplished (unanswered, etc.) and provide an approximate completion date.
 - d. If unable to provide a completion date, the inspector general and chief administrative officer will negotiate a completion date.

6. Section heads located at central office or within the worksite of another division shall process investigation requests through their division director/designee, the deputy director/designee and the department director/designee.
7. When the chief administrative officer requests assistance from a law enforcement agency to investigate any criminal offense, the investigation manager or inspector general shall be verbally or electronically notified.
 - a. Such notification shall be followed by forwarding a written Request for Investigation form to the criminal investigation unit by the person requesting the law enforcement assistance.
8. Investigators may investigate alleged criminal law violations to the extent requested and authorized by the criminal justice/law enforcement agency. Investigators are authorized to initiate a Request for Investigation and submit such request to the respective regional investigation supervisor for approval.

G. General Investigation Requirements:

1. When any employee becomes aware that any actual or alleged violation of category I or II has occurred, the employee will immediately notify the chief administrative officer through the employee's chain of command.
2. If any investigation involves a case of physical injury, the injured party will receive medical attention prior to any investigative questioning.
 - a. If an investigator observes erratic behavior by the injured party, the investigator will ensure the chief administrative officer/designee is notified.
3. Employees must fully cooperate with all investigations and must fully and truthfully relate their knowledge of all facts pertaining to the alleged behavior under investigation.
4. Truth verification examinations shall be initiated and conducted in accordance with D1-8.2 Truth Verification Examination - Employees or D1-8.3 Truth Verification Examination - Offender.
5. Law enforcement agencies conducting criminal investigations involving department employees are authorized to conduct investigations or inquiries to the

extent permitted by law.

6. The investigator will forward documented findings of a formal investigation involving employees to the regional investigation supervisor for review, disposition and dissemination.
7. An employee shall not withhold information from her/his superiors or coworkers that negatively affects or could affect ongoing operations of state government or the department.

H. Investigation Process Rights and Privileges:

1. An employee under investigation for a category II behavior may be issued the department's Administrative Proceedings Warning (Attachment C) or the Administrative Proceedings Warning - Contract Employee (Attachment D) and will be asked to sign the form before questioning.
 - a. The Administrative Proceedings Warning or Administrative Proceedings Warning - Contract Employee should reflect the relevant subject matter that is to be discussed.
 - b. If the subject matter is changed, a new Administrative Proceedings Warning or Administrative Proceedings Warning - Contract Employees should reflect the change and should be signed by the employee.
2. Offenders under investigation for criminal law violations may be administered the Statement of Your Rights/Waiver of Rights form (Attachment E) prior to any questioning.
3. Probation and parole employees whose positions are covered by the SEIU bargaining unit shall be issued the Employee Right to Representation (Attachment F) in person, immediately prior to being interviewed as part of an official investigation.
4. Employees participating in an investigation conducted by the criminal investigation unit will be entitled to advice, assistance or representation by a worksite coworker, or other person as established by the appropriate bargaining unit agreement, if the employee has a reasonable expectation the investigation may lead to her/his demotion, suspension or dismissal.
 - a. The employee representative shall not be connected in any way to the investigation.
 - b. An employee's arrangements for representation shall

not delay the investigative proceedings.

5. The chief administrative officer, or the person requesting the investigation, will be provided a status report by the regional investigation supervisor upon written request.

I. Inspector General Responsibilities:

1. The inspector general will provide guidance and direction to the criminal investigation unit in conducting investigations for all divisions of the department.
2. The inspector general will supervise the investigation manager. All final decisions concerning investigative processes and methods will be made by the investigation manager with concurrence of the inspector general.
3. The inspector general may activate a major incident investigation team to conduct special investigations of certain incidents within the purview of the department.
4. When an employee of the department has reasonable cause to believe that an offender has been abused in accordance with 217.405 or 217.410 the inspector general, as the director's designee, shall receive, process, initiate investigations and make reports as required.
5. The inspector general will keep the department director and deputy director informed of active investigations that are of a serious nature, have potentially serious negative consequences to the department or have the potential to generate media interest.

J. Investigation Manager Responsibilities:

1. The investigation manager will supervise and manage the operations of the criminal investigation unit and will supervise the regional investigation supervisors.
2. The investigation manager has oversight for, and provides direction and guidance over all departmental investigations.
3. The investigation manager may delegate to regional investigation supervisors, investigations related to events/incidents criminal in nature or of such seriousness so as to warrant an investigation.
4. The investigation manager shall have the authority to activate the major incident investigation team and

assign staff in appropriate numbers to support the investigation with concurrence of the inspector general. The director and deputy director shall be notified of any such activation.

5. The investigation manager may request through the inspector general assistance from outside agencies in the investigation of a major incident within the department.
6. The investigation manager may assign investigators statewide to temporary assignments to ensure adequate support during investigative processes.

K. Regional Investigation Supervisor Responsibilities:

1. The regional investigation supervisor shall:
 - a. oversee investigation activities within a designated region; and
 - b. report directly to the investigation manager.
2. The regional investigation supervisor will assign investigators to investigate allegations of category II behaviors.
3. The regional investigation supervisor will assign cases, provide supervision, direction and guidance to investigators in her/his designated region.
4. The regional investigation supervisor will review and evaluate all investigation reports and information to ensure all appropriate investigative actions have been taken.
5. The regional investigation supervisor will ensure that the chief administrative officer/designee is advised of information relating to any investigation at that facility which does not compromise the confidentiality or the integrity of the investigation.
6. The regional investigation supervisor will ensure that warrant applications, if applicable, are completed by a member of the criminal investigation unit and submitted with each case presented to the county prosecuting attorney's office in accordance with IS19-3.1 Request for Prosecution.
 - a. The chief administrative officer should be informed of prosecution referrals, as applicable.
7. The regional investigation supervisor will assist the

chief administrative officer/designee in evaluating and reviewing behaviors to determine whether it should be investigated by the criminal investigation unit or remain in the chief administrative officer's purview.

8. As the need dictates, an investigator may be utilized during the initial implementation of this procedure to provide guidance, training or other short-term assistance to ensure that proper methods and processes are utilized by facility staff in handling category I behaviors.

L. Investigator Responsibilities:

1. The investigator shall answer directly to the regional investigation supervisor/designee in the appropriate investigative region and shall be given authority to investigate any matter as assigned by the regional investigation supervisor, the investigation manager, or the inspector general.
2. The investigator shall aid and assist in investigations as directed by, and to the limit permitted by the responsible law enforcement agency, the investigation manager, and the inspector general.
3. Investigators may be assigned outside their normally assigned region to assist in statewide investigations.
4. When investigative efforts determine the issue may be criminal in nature, the investigator may notify the law enforcement agency having jurisdiction.

M. Chief Administrative Officer/Designee Responsibilities:

1. The chief administrative officer will evaluate and review behaviors to determine whether it should be investigated by the criminal investigation unit or remain in the chief administrative officer's purview, seeking assistance of the regional supervisor as needed. Investigation requests should be submitted to the investigation unit on category II behaviors, at the time of the incident or at the time the allegation occurs.
 - a. If the matter remains under the purview of the chief administrative officer and is subsequently referred for prosecution, the chief administrative officer shall ensure that warrant applications, if applicable, are completed and submitted with each case presented to the county prosecuting attorney's office in accordance with IS19-3.1 Request for Prosecution.

- b. The chief administrative officer should inform the regional investigation supervisor of prosecution referrals, as applicable.
- 2. The chief administrative officer will notify the division director of a criminal behavior incident and the law enforcement agency having jurisdiction when appropriate.
- 3. The chief administrative officer will ensure that staff immediately secure the crime scene after appropriate medical attention is rendered.
 - a. Staff will continue to man the crime scene area until the investigator arrives and assumes responsibility for the scene or as otherwise advised.
 - b. A staff member will be assigned to keep a Chronological Log (Attachment G) of anyone entering or leaving the crime scene.
 - c. All staff witnesses and staff members having direct or indirect knowledge or information relating to the incident, will complete a memorandum or Report of Incident (Attachment H) explaining their knowledge of the incident prior to leaving their shift.
 - d. All documentation, logs, etc. pertaining to the incident will be submitted to the investigator upon her/his arrival at the scene.
- 4. The chief administrative officer will ensure that staff are made accessible to investigators for interviews or other related investigatory processes.
- 5. The chief administrative officer shall provide adequate facility resources, including additional personnel as necessary during investigation by the criminal investigation unit. Resources are identified as:
 - a. private, permanent working space to conduct interviews, and
 - b. adequate, secure storage areas for evidence and other investigative property.
- 6. The chief administrative officer will be advised in writing of investigation results consistent with terms of confidentiality identified in this procedure.
- 7. The chief administrative officer will take necessary actions to assist an injured party if any investigation

involves a case of physical injury.

- N. All investigators of the department will be allowed unrestricted access to any correctional facility under jurisdiction of the department as needed to perform the duties of their position.
- O. Outside Law Enforcement Interview Process: Law enforcement (local, state and federal) representatives whose purpose is to interview an offender or offenders in conjunction with a criminal investigation will be permitted access to the facility upon presentation and verification of credentials. A Missouri Uniform Law Enforcement System (MULES) and National Criminal Investigation Check (NCIC) record check will not be conducted.
 - 1. Requests from outside law enforcement agencies to interview an offender will be handled by the investigator.
 - a. The chief administrative officer/designee will be informed of all interviews scheduled by the investigator by memorandum, prior to the interview. The investigator will:
 - (1) verify the reason for the interview;
 - (2) make arrangements time, date and place for the interview to take place;
 - (3) verify the authenticity of the law enforcement representative requesting the interview.
 - (A) Questions or uncertainty regarding authenticity of an individual's credentials or legitimacy of the request will be handled by the investigator.
 - (B) Contact should be made with the outside law enforcement agency for verification.
 - (4) Offender notification will be handled by the investigator (this may entail custody bringing the offender to the place of the interview on the day of the interview). Offenders may refuse to be interviewed.
 - 2. If the investigator is unavailable to coordinate the interview, the regional investigation supervisor will assume these responsibilities.
 - 3. The chief administrative officer will be informed by memorandum of any incidents, irregularities, questions

on credentials, etc. and may deny the interview.

4. If, during this process, it is determined the offender poses a security risk, this information should immediately be shared with the chief administrative officer/designee.

P. Investigation Reports:

1. Investigators shall use a standardized Investigation Report format (Attachment I) in all investigations.
 - a. Investigators shall use the investigative tracking system to assign an individual case number to each case.
 - b. The regional investigation supervisor will review each case and, upon approval, the report will be distributed to the appropriate chief administrative officer or other designated authority.
2. The investigation manager will ensure completion of the Month/Year Incident Type Report (Attachment J) and will provide 2 copies to the inspector general.
 - a. The inspector general will forward copies to the division director, deputy director and department director as appropriate.
3. Each division shall be responsible for ensuring that a log is maintained of all investigations, noting whether or not disciplinary action was taken. This log should contain the following information:
 - a. division,
 - b. work location,
 - c. date of incident (if known),
 - d. type of allegation (found or unfound),
 - e. subject(s),
 - f. victim(s),
 - g. witness(es),
 - h. case number (when applicable),
 - i. action taken and date, and
 - j. any additional comments.

4. If an employee resigns or is dismissed prior to, during or after the investigation and the investigation reveals information that would adversely affect that person's rehire, a report will be submitted to the central office human resource manager by the chief administrative officer in accordance with D2-3.1 Resignations.
5. All original investigative materials will be retained at the respective investigation office.

Q. Major Incident Investigation Team:

1. A major incident investigation team may be convened upon approval of the inspector general to conduct special investigations within the purview of the department.
 - a. The director and deputy director shall be notified of any activation.
2. The major incident investigation team will normally consist of 6 or more investigators designated as team members by the investigation manager/designee.
3. This team may be directed to assist law enforcement agencies when dealing with departmental and criminal incidents.
4. Request for team assistance should be made through the chain of command to the inspector general.
 - a. A request for assistance will include the following information:
 - (1) Name, title, address and telephone number of the person requesting assistance.
 - (2) Type of incident, time and date of occurrence, if known, and the time and date of discovery.
 - (3) A summary of the facts, including location of incident, evidence available and any other helpful information will be documented and submitted to the regional investigation supervisor.
5. Team composition and investigation techniques of the major incident investigation team will be in accordance with established procedures and the Major Incident Investigation Team Procedural Manual.

IV. ATTACHMENTS:

- A. 931-4151 Request for Investigation
- B. 931-4123 Inspector General Investigation Tracking Report Format
- C. 931-3469 Administrative Proceedings Warning
- D. 931-4083 Administrative Proceedings Warning - Contract Employees
- E. 931-2539 Statement of Your Rights/Waiver of Rights
- F. 931-4395 Employee Right to Representation
- G. 931-0953 Chronological Log
- H. 931-3754 Report of Incident
- I. Investigation Report format
- J. Month/Year Incident Type Report

V. REFERENCES:

- A. D1-1.2 ADA Complaint/Grievance Procedure
- B. D1-8.2 Truth Verification Examination - Employees
- C. D1-8.3 Truth Verification Examination - Offender
- D. D1-8.4 Administrative Inquiries
- E. D1-8.6 Offender Abuse/Sexual Contact
- F. D1-8.9 Crime Tips Hotline
- G. D2-3.1 Resignations
- H. D2-4 Personnel Performance Evaluation
- I. D2-9.1 Employee Discipline
- J. D2-10.1 Employee/Management Grievance
- K. D2-11.4 Sexual and Other Harassment
- L. D2-11.6 Labor Organizations
- M. D5-3.2 Offender Grievance
- N. IS19-3.1 Request for Prosecution
- O. Major Incident Investigation Team Procedural Manual

VI. HISTORY:

- A. Original Effective Date: 06/05/89
- B. Revised Effective Date: 10/15/90
- C. Revised Effective Date: 01/01/95
- D. Revised Effective Date: 12/01/99
- E. Revised Effective Date: 07/12/02
- F. Revised Effective Date: 08/04/03

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D1-8.2 Truth Verification Examination - Employee

_____ Gary B. Kempker, Department Director	June 21, 2001 Effective Date
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I. PURPOSE: This procedure establishes guidelines for administering truth verification examinations by the use of Computer Voice Stress Analyzer or Polygraph Examination for employees of the department.

A. AUTHORITY: 217.040 RSMo

B. APPLICABILITY: This procedure applies to all employees, including volunteers, interns and contracted employees of the department.

II. DEFINITIONS:

A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the work site, as designated below. Exception: Employees at a work site who do not report to the work site chief administrative officer will be approved by assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

a. Deputy Director

2. Department Sections in the Director's Office:

a. Deputy Director

b. Central Office Section Heads

3. Division of Probation and Parole:

a. Division Director

b. Assistant Division Directors

c. Superintendents

d. Regional Administrators

e. District Administrators

4. Division of Adult Institutions:

- a. Division Director
- b. Assistant Division Directors
- c. Assistant to Division Director
- d. Superintendents

5. Division of Offender Rehabilitative Services:

- a. Division Director
- b. Assistant Division Directors
- c. Superintendents
- d. Central Office Section Heads

6. Division of Human Services:

- a. Division Director
- b. Central Office Section Heads

- B. Employees: Includes all persons who perform duties for the department including full and part time employees, volunteers, interns and, for the purpose of this procedure only, contract employees (persons who provide specific services within the department on a contractual basis).
- C. Independent Examiner: A certified examiner obtained through contract or from another law enforcement agency.
- D. Trained Examiner: A person who has satisfactorily completed training and has been issued a certificate of completion by a recognized instructor in truth verification and the use of the selected instrument.

III. PROCEDURES:

A. Request and Authorization for Truth Verification Examination:

- 1. Individuals in the following positions may request the use of a truth verification examination to aid in an investigation:
 - a. department director,
 - b. deputy department director,
 - c. inspector general,
 - d. division directors,
 - e. assistant division directors,
 - f. chief internal affairs officer/designee,

- g. regional investigation supervisor,
 - h. superintendents,
 - i. probation and parole administrators,
 - j. district administrators,
 - k. investigators, or
 - l. human relation officers.
2. Truth verification examinations of employees or contract employees must be approved by one of the following employees:
- a. department director,
 - b. deputy department director,
 - c. inspector general,
 - d. chief internal affairs officer/designee, or
 - e. regional investigation supervisor.
3. Examinations may be administered by directing the employee to take the examination or when the employee or contract employee volunteers to take the examination. The contract employee's employer should be notified before administering the examination to the contract employee.
- a. Should an employee or contract employee volunteer to take a truth verification examination, it should be mutually agreeable between the internal affairs chain of command and the trained examiners involved that the examination will be given.
 - b. The examiner's discretion will involve professional standards and testing parameters to ensure suitability for testing.
 - c. Drugs, medical conditions and age do not preclude an employee from being suitable for testing.

B. Guidelines for Administering Truth Verification Examinations:

- 1. All individuals conducting truth verification examinations for the department shall be trained examiners.

2. Examinations are to be administered only as they relate to investigations being conducted by the department.
 - a. Examinations will usually be administered in situations involving major infractions and are not to be used as general catch-all examinations.
 - b. Internal disciplinary action taken against an employee cannot be based solely on the result of a truth verification examination. There must be additional credible evidence.
 - c. If a truth verification examination is not conducted prior to disciplinary actions, it may not be administered unless new physical evidence would warrant reopening the investigation.
3. The chief internal affairs officer/designee, regional investigation supervisor or the inspector general will be advised of all requests and approvals of truth verification examinations for department employees or contract employees.
4. The truth verification examination shall not be administered by the investigator directly conducting the investigation or by an investigator from the same work site.
 - a. In such cases an independent examiner or an examiner from another institution not directly involved should be used.
 - b. The decision to use an independent examiner will be made by the chief internal affairs officer/designee, regional investigator supervisor, or, if not available, the inspector general.
 - c. If the decision is made to use an internal examiner, the selection shall be made by the chief internal affairs officer/designee or, if not available, the inspector general.
5. If an employee or contract employee files a complaint against another employee of the department or contract employee and it is determined that a truth verification examination is needed, the employee or contract employee filing the complaint or making the allegation may be required to take a truth verification examination first.
6. The employee authorized to request a truth verification examination shall contact the appropriate approving authority.

- a. Contact may be made by telephone, electronic mail or in writing.
 - b. Approval of requests for computer voice stress analyzer examinations received via telephone will be followed by a signed written request. The request will have all pertinent case information attached.
- 7. Upon receipt of approval for a truth verification examination, the examiner shall notify the individual to be examined and the chief administrative officer of the date, time and place of the examination.
- 8. When an employee or contract employee becomes the focus of an administrative investigation and prior to being administered a truth verification examination, the employee shall be provided with the Administrative Proceedings Warning form (Attachment A) and the contract employee shall be provided with the Administrative Proceedings Warning - Contract Employee (Attachment B) and parties involved shall sign the form.
 - a. An employee or contract employee shall be entitled to advice, assistance or representation by a fellow employee from the work site, who may be a steward or local union officer.
 - b. Representation will be allowed during the administration of the test as an observer; however, the representative shall be out of sight of the employee or contract employee during the examination process and shall not make any comments, abrupt movements or interfere in any way with the testing process.
- 9. Upon completion of an examination, an employee or contract employee shall be advised of the findings by the examiner.
 - a. Upon request to the regional investigation supervisor, the employee or contract employee should be provided with a written copy of the findings.
 - b. Normally the written copy will be provided within seven days from the date of the examination.
- 10. The results of all examinations conducted are to remain confidential and shall not be released to any person without a need to know or without the written approval of the department director. The results shall be retained in a secure area by the examiner.

- a. The results of the contract employee's examination will not be disclosed to the contract employee's employer.

C. Voluntary Truth Verification Examination:

1. When an employee or contract employee is to be voluntarily administered a truth verification examination, a Truth Verification Release form (Attachment C) will be completed.
2. The Truth Verification Release form will be maintained as part of the investigative file.

D. Written Directive to Take a Truth Verification Examination:

1. If an employee is asked to take a truth verification examination and the individual refuses, a written directive ordering the individual to take a truth verification examination may be issued by the chief administrative officer. The Truth Verification Release form will not be used.
 - a. Approval may be verbal; but must be followed by written approval.
 - b. Refusal on the part of the employee to take the examination will be handled through normal disciplinary procedures.
2. When a written order is issued to take an examination, the order should include:
 - a. the general nature of the allegations made against the individual;
 - b. the type of examination to be given, either a computer voice stress analyzer or polygraph examination; and
 - c. a warning that refusal to submit to a truth verification examination will result in disciplinary action.
3. The written order shall be dated and given to the individual ordered to take the examination. Copies of the order shall be made and distributed to the issuing authority and investigator's file.
4. Refusal of a contract employee to take the examination will be handled in accordance with the contractual agreement.

IV. ATTACHMENTS:

- A. 931-3469 Administrative Proceedings Warning
- B. 931-4083 Administrative Proceedings Warning - Contract Employee
- C. 931-3868 Truth Verification Release

V. REFERENCES:

- A. D1-8.1 Investigation Responsibilities and Guidelines

VI. HISTORY:

- A. Original Effective Date: 02/27/89
- B. Revised Effective Date: 05/15/95
- C. Revised Effective Date: 04/01/96
- D. Revised Effective Date: 06/26/00
- E. Revised Effective Date: 06/21/01

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-7.8 Tuberculosis Testing for Employees

December 8, 2005

Larry Crawford, Department Director

Effective Date

I. PURPOSE: This procedure establishes guidelines for tuberculosis testing for employees. Tuberculosis is an airborne disease that occurs three times more often in correctional facilities than in the general public. The close monitoring of all employees to identify tuberculosis is an important component to an effective tuberculosis control program.

A. AUTHORITY: 199.170, 199.180, 199.190, 199.210, 199.350, 217.040 RSMo; 19 CSR 20-20.100

B. APPLICABILITY: This procedure applies to all employees of the department. Each division will develop procedures based on the guidelines established herein.

II. DEFINITIONS:

A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

a. Deputy Director

2. Department Sections in the Director's Office:

a. Deputy Director

b. Central Office Section Heads

3. Division of Probation and Parole:

a. Division Director

b. Chief State Supervisor

c. Assistant Division Directors

- d. Superintendents
- e. Regional Administrators
- f. District Administrators

4. Division of Adult Institutions:

- a. Division Director
- b. Assistant Division Directors
- c. Assistant to Division Director
- d. Superintendents

5. Division of Offender Rehabilitative Services:

- a. Division Director
- b. Assistant Division Directors
- c. Superintendents
- d. Central Office Section Heads

6. Division of Human Services:

- a. Division Director
- b. Central Office Section Heads

- B. Close Contact: A person who sleeps, lives, works or otherwise shares air through a common ventilation system as identified on a case-by-case basis by the employee health and safety coordinator or Missouri Department of Health.
- C. Contracted Health Department: The local health department that has agreed to provide tuberculosis testing and reading of test results for department employees as specified in a contract with the department.
- D. Department: The Missouri Department of Corrections unless specified otherwise.
- E. Designated Physician: A doctor who has contracted or agreed to provide services for employees to determine if the employee is infectious, and to provide follow up care related to the employee's tuberculosis status. The designated physician must be approved by the employee health and safety unit.
- F. Employee: Any person who is employed by the department, including part-time employees (i.e., regular status employees who work less than 40 hours, college instructors, etc.).
- G. Employee Health File: A confidential file at the work location which contains information concerning an employee's work related medical care issues, such as workers compensation, tuberculosis test results and all other relevant medical information.
- H. Employee Health Nurse: A person contracted or employed by

the Department of Corrections to provide direct services to employees in communicable disease testing/vaccination/evaluation, occupational health and health education/promotion.

- I. Employee Health and Safety Coordinator: A person who coordinates activities in the employee health and safety unit.
- J. Employee Health and Safety Unit: A section in the Division of Human Services responsible for coordinating and monitoring health education, occupational health and safety issues and other employee health/wellness/safety issues.
- K. Health Care Provider of Choice: A person or persons chosen by the employee and qualified to provide medical care. This health care provider is not contracted by the department or approved for payment through the department.
- L. Infectious: A state of being able to transmit the disease to other persons after having been exposed to tuberculosis and developing active disease of the lung or voice box.
- M. Positive: A tuberculosis test result indicating that the employee has been exposed to tuberculosis, but may or may not be contagious to other people.
- N. Purified Protein Derivative (PPD): The substance used in the intradermal Mantoux method of skin testing, the only type of tuberculosis test approved by the Missouri Department of Health Rule. The test results must be submitted in millimeters of induration.
- O. Significant Reaction: A skin test considered to be positive as determined by Missouri Department of Health guidelines.
- P. Symptoms Of Tuberculosis:
 - 1. night sweats (waking up from sleep drenched in sweat);
 - 2. unexplained fever (fever for several weeks, unrelated to a known illness);
 - 3. cough lasting longer than 3 weeks;
 - 4. unexpected weight loss;
 - 5. coughing up blood; and/or
 - 6. feeling tired all the time and/or being unusually weak.
- Q. Testing: The dual process of the actual intradermal Mantoux skin testing followed by a reading after approximately 48 to 72 hours to determine the reaction.

- R. Tuberculosis Coordinator: An employee designated by the chief administrative officer to coordinate on site tuberculosis testing.
- S. Two Step Testing: Used for the baseline testing of persons who will receive periodic testing. It is done to distinguish a boosted reaction (caused by tuberculosis infection that occurred many years before) from new infection. The process of the actual intradermal Mantoux skin test is followed by a reading of the first injection at 48 to 72 hours or 7 days to determine the reaction. If the reaction to the first test is less than 10 mm of induration, it is considered "negative". A second intradermal Mantoux skin test is applied 7 days to 3 weeks after the initial test has been applied. The second intradermal test will be read at 48-72 hours (2-3 days) after the injection. A reading of 10 mm or greater on the test(s) is considered a "positive" reaction indicating tuberculosis infection as determined by the designated physician.

III. PROCEDURES:

A. Compensation:

1. Tests and evaluation of tests by the employee health nurse or the contracted health department, the first visit to the designated physician for physical examination, x-rays, sputum tests or necessary blood tests will be paid for by the department or via workers compensation procedures.
 - a. Employees will not pay for medication provided by a health department.
 - b. Reimbursement for medication received from sources other than a health department will be paid only when reasonable and necessary.
 - c. Additional visits and costs incurred will be evaluated by the employee health and safety unit for payment.
 - (1) The Department of Health, Central Accident Reporting Office, and department director/designee may be involved in the evaluation of services on a case-by-case basis for possible payment.
 - d. Costs incurred by using health care providers of choice will be the responsibility of the employee.
 - (1) Meals and mileage will not be compensated.

(2) Administrative leave will not be authorized.

2. Employees will use the employee health nurse or if not available to the site, the contracted health department or the health care provider of choice.
 - a. The department will only reimburse the contracted health department and designated physician when prior approval is given.
 - b. Only the Purified Protein Derivative test as defined in this procedure will be acceptable.
 - c. Costs incurred by using health care providers of choice will be the responsibility of the employee.
- B. Persons being interviewed for positions within the department will be notified via the interview notification letter and during the interview process that they will be required to comply with this procedure.
- C. All contracted service providers who work on site for an extended period of time in an institutional setting (i.e., education, medical, treatment employees, mental health employees) will be required to submit results of tuberculosis testing indicating that their employees are free of tuberculosis infection.
 1. Prior to commencing services and annually on the date of contract renewal, the results of tuberculosis testing will be submitted to the chief administrative officer.
 2. The chief administrative officer, in consultation with the department employee health and safety coordinator, will be responsible for advising contracting agencies of the requirements of this procedure.
- D. Construction contractors working within correctional facilities assigned to perform tasks, the duration of which will cause the worker to be within the confines of the correctional facility for more than 10 consecutive days, must provide proof of a negative tuberculin skin test.
 1. The test must be no more than 6 months old at the commencement of construction.
 2. Cost of the test must be born by the contractor or the workers, not the department.
 3. If the construction contract period extends for more than 12 months, all workers must be tested again on the anniversary of the contract commencement date.

4. Any worker required to have a tuberculin skin test and who fails or refuses to do so will be denied admission to the facility until such time as proof of the test results are provided.
 5. If any worker has a tuberculin skin test which has positive results, the worker shall be refused access to the facility until the worker produces a certificate from a health care provider licensed to practice in the state of Missouri stating that the worker does not have infectious tuberculosis.
 6. The contractor shall not be entitled to any additional time or compensation as a result of denial of access to any of the workforce as a result of the failure to produce negative tuberculin skin test results.
 7. The owner and the department reserve the right to request the tuberculin skin test results of any of the contractor's workforce who are required to have such a test.
 - a. Failure or refusal to maintain and produce the required records shall be a material breach of the contract, which shall subject the contractor to declaration of default in accordance with Article 30 of the General Conditions.
- E. New employees will, on the first day of employment, be informed that they will be required to go to the employee health nurse or the contracted health department/health care provider of choice within the first 3 weeks of employment for department approved testing and/or determination of positive status by history.
1. The testing and follow up process established in III.F. will be followed.
- F. All employees will be required to have a yearly Purified Protein Derivative test during their birth month.
1. This is in addition to the new employee testing noted in III.E.
 2. This is not replaced by nor takes the place of special mandatory testing as specified in III.H. of this procedure conducted at times other than the yearly testing date.
 3. Exceptions may apply with approval of the employee health and safety coordinator.

4. During orientation training employees will be advised that every year during their birth month they must take a Purified Protein Derivative test.
 - a. Employees will sign the Receipt of Information on the Tuberculosis Screening form (Attachment A) for this information and the signed copy will be placed into her/his employee health file.
5. A computerized listing of birth dates will be printed for the work location by designated employees during the month prior to the birth month.
6. The chief administrative officer/designee will provide a written notification to each employee advising them that they are required to take a Purified Protein Derivative test prior to the last day of their birth month.
 - a. The test will be given by the employee health nurse or the contracted health department/health care provider of choice.
 - b. Notification will also be made to the section head/unit supervisor who will ensure compliance of subordinate employees.
 - c. If the scheduled appointment must be changed due to an emergency or unusual circumstances, the employee will coordinate the new test date with the scheduling office.
 - d. The new appointment must be made so the results are submitted to the chief administrative officer/designee by the last day of the employee's birth month.
 - e. The notification will include the time, date and location of the appointment, or that they will need to make an appointment, and include a copy of the Tuberculosis Screening - Employee form (Attachment B).
 - f. If an employee is transferred to another work location during the birth month, but prior to receipt of test results, the chief administrative officer/designee will send notification to the chief administrative officer of the receiving worksite.
7. Employees will report for testing to the location designated by the employee health nurse or the contracted health department/health care provider of choice in

conjunction with the chief administrative officer/
designee.

8. Employees are encouraged to report to the same employee health nurse or contracted health department/health care provider of choice at the specified time and place to have the skin reaction evaluated and documented.
 - a. Documentation of test results via the Tuberculosis Screening - Employee form must be returned by the employee to the designated employee at the work location.
9. If, at the time of the first test, an employee indicates she/he is positive by history, she/he must provide documentation of a tuberculin skin test reaction in millimeters of induration to the employee health nurse or contracted health department/health care provider of choice indicating positive tuberculosis test results and follow up care within 3 weeks of initiating employment.
 - a. The employee health nurse or contracted health department/health care provider of choice will determine whether further testing is indicated.
 - b. If documentation is not provided, the employee health nurse or contracted health department/health care provider of choice will determine testing requirements.
 - c. In the absence of documentation, a repeat test will be required.
 - d. If a determination is unable to be made by testing agencies, the employee will be referred to the health and safety coordinator for final determination.
10. The only exception to annual testing, is, after the first test, if the employee has a history of a positive test, the Annual Health Statement for Tuberculin Reactors (Attachment C) must be completed.
 - a. At any time when an employee who has a history of a positive test displays symptoms of tuberculosis, that employee will be required to obtain follow up care as established in this procedure.
11. Employees who are on extended leave will be notified during the same time-frame as all other employees and must comply with testing and follow up care within one week of return to work.

- a. Exceptions will be approved by the chief administrative officer.

G. Follow Up Care:

1. When an employee has a significant reaction and/or symptoms suggestive of active tuberculosis, the employee will notify the chief administrative officer/designee the next working day.
2. The employee will be required to see a designated physician/health care provider of choice and begin follow up care.
3. D2-15.5 Employee Injury/Workers Compensation procedure will be followed, however, the forms will not be forwarded to the work location safety manager or person acting in that capacity nor the department safety coordinator.
 - a. Only the chief administrative officer and employee will sign the forms required by that procedure.
4. New employees will follow all applicable procedures except filing a claim with the Central Accident Reporting Office.
5. The employee, with the assistance of the tuberculosis coordinator, will, within 2 working days, make an appointment with the designated physician/health care provider of choice and inform the chief administrative officer/designee of the appointment date.
 - a. The employee must take a copy of her/his department tuberculosis testing history along with the current screening form.
6. The employee must return to work with a Physician Statement on Tuberculosis Screening form (Attachment D) completed by the physician indicating she/he is free from infectiousness the next working day after receiving the results.
7. If the employee is infectious, the employee and office of the designated physician/health care provider of choice must call the chief administrative officer/designee notifying them.
 - a. The Physician Statement on Tuberculosis Screening Statement on Tuberculosis Screening form will be sent to the chief administrative officer/designee and the envelope will be marked

"CONFIDENTIAL."

8. The chief administrative officer/designee will inform the department employee health and safety unit of any significant reactions.
 9. If a health care provider of choice is used, the bottom half of the Tuberculosis Screening -Employee form will be completed and returned to the chief administrative officer the next working day after receiving the results.
 - a. This process will not exceed 6 weeks.
 - b. If 6 weeks is not sufficient, the employee may request an extension from the chief administrative officer.
- H. Special Mandatory Employee Testing: Testing may be required at times other than the birth month as follows.
1. All employees who are listed as close contacts of infectious offenders or employees will be required to submit to testing and the Tuberculosis Screening - Employee form will be completed.
 2. Whenever an employee has a skin test reaction measuring greater than 0 mm and less than 10 mm, the employee health and safety coordinator, in consultation with the Missouri Department of Health or a physician, will make a determination of need for further testing based on concurrent findings.
 3. Whenever the department, in consultation with the Department of Health, mandates that all or a portion of employees must be tested, employees will be required to submit to testing.
 4. The location and time frames for special testing will be determined by the appropriate division director, the chief administrative officer, the employee health and safety coordinator and the contracted health department/ health care provider of choice.
- I. Employees who suspect they have been exposed to active tuberculosis should immediately contact the employee health and safety coordinator for instructions in testing and care.
- J. Leave and Time Keeping:
1. Employees will be permitted at least annually, and when mandated, to take the Purified Protein Derivative test and to have the results evaluated during working hours as

approved by the chief administrative officer.

2. Employees will be credited with overtime as outlined in D2-8.4 Compensatory Time if the testing/reading was not available during scheduled work time.
 3. If an employee tests positive and no symptoms of tuberculosis exist, then she/he will continue to work unless the physician indicates that she/he should not work.
 4. If an employee tests positive and/or displays symptoms of tuberculosis, the contracted health department/health care provider of choice and the employee must call the chief administrative officer/designee notifying them of such.
 - a. Based on the health care provider's recommendations, the employee may be placed on administrative leave pending a determination by the physician as to being infectious.
 5. Employees will be authorized for administrative leave for the first visit for follow up care.
 - a. All additional treatment will require the use of sick, annual, compensatory time or leave without pay.
 6. If the tests indicate the employee is infectious, she/he will be barred from the work location until documentation is received from the designated physician/health care provider of choice that the employee is not infectious.
 - a. Established workers compensation and leave procedures will be followed.
 7. If the tests indicate the employee is infectious and she/he refuses the treatment required by law, she/he will be placed on administrative leave pending disciplinary action.
 8. If an employee has a documented adverse reaction to the medication, sick leave, annual leave, compensatory time or leave without pay will be granted.
- K. Documentation of the test and test results will be placed into the employee health file.
1. All test results are confidential and information will only be shared to the extent necessary to ensure appropriate action is taken to safeguard public health.

- L. The chief administrative officer/designee will submit testing statistics on a monthly basis to the employee health and safety coordinator by the 10th of the following month.
- M. Anyone failing to comply with the annual testing requirement (excluding those on extended leave) will be given further direction to comply with the procedure and will be subject to disciplinary action as follows:
 - 1. On the first working day of the month following an employee's failure to comply with the procedure, the chief administrative officer will hand deliver the employee a written directive to comply with the procedure within 5 days from the date of the directive.
 - a. The written directive should include notice to the employee scheduling her/him to appear for a pre-disciplinary hearing in accordance with D2-9.1 Employee Discipline to be held the day after their compliance with the procedure is required.
 - 2. If the employee complies with the procedure prior to the specified date, the following should occur:
 - a. If the incident of failing to comply is a first occurrence, the chief administrative officer should cancel the pre-disciplinary hearing and issue the employee a letter of caution.
 - (1) The chief administrative officer may hold the pre-disciplinary hearing if circumstances surrounding the incident warrant a hearing.
 - b. If the incident of failing to comply with the procedure is a second or greater occurrence, the pre-disciplinary hearing will be held and information submitted to the appointing authority who shall determine what, if any, disciplinary action is warranted.
 - 3. If the employee fails to comply with the procedure by the specified date, the pre-disciplinary hearing will be held and information submitted to the appointing authority who shall determine what, if any, disciplinary action is warranted.
 - a. The chief administrative officer should issue the employee a second written directive to comply with the procedure within 5 days from the date of the second directive.
 - (1) The directive should include the scheduling of a pre-disciplinary hearing to be held the day

after their compliance with the second directive is required.

4. If the employee fails to comply with the procedure after the second directive from the chief administrative officer, the employee should be placed on administrative leave and the pre-disciplinary hearing should be held and information should be forwarded to the appointing authority and the employee will be subject to dismissal.
- N. Anyone failing to comply with this procedure regarding testing and testing timelines required as a result of contact to an active tuberculosis disease case, will be subject to disciplinary action as follows:
1. The employee, excluding those on extended leave, will be placed on administrative leave by the chief administrative officer/designee until compliance is achieved.
 - a. A letter will be hand delivered to the employee informing her/him of the reason for placement on administrative leave and the terms necessary for returning to work.
 - b. Failure to comply will result in disciplinary action.
 - c. Evidence of compliance must be presented to the chief administrative officer/designee.
 - d. Failure to provide evidence of compliance within 5 working days will be cause for dismissal.
 - e. Employees on extended leave who have passed the test date, will be required to test prior to returning to work.
 - (1) Those employees who have not tested prior to return will be evaluated by the chief administrative officer and the employee health and safety coordinator and may be placed on administrative leave or may be permitted to test during the first work week.
 - (2) Employees should contact the chief administrative officer for direction.
 - f. Those employees who have not tested prior to return will be evaluated by the chief administrative officer and the employee health and safety coordinator and may be placed on administrative leave or may be permitted to test during the first

work week.

- g. Employees should contact the chief administrative officer for direction.

IV. ATTACHMENTS:

- A. 931-3732 Receipt of Information on Tuberculosis Screening
- B. 931-3743 Tuberculosis Screening - Employee
- C. 931-3742 Annual Health Statement for Tuberculin Reactors
- D. 931-3741 Physician Statement on Tuberculosis Screening

V. REFERENCES:

- A. D2-6.1 Reimbursement for Travel and Subsistence
- B. D2-15.5 Employee Injury/Workers Compensation
- C. D2-8.4 Compensatory Time
- D. D2-8.5 Administrative Leave
- E. D2-9.1 Employee discipline
- F. NCCHC Standards P-14
- G. Department of Health Guidelines
- H. Control for Tuberculosis in Correctional Facilities by the Center for Disease Control and Prevention

VI. HISTORY:

- A. Original Effective Date: 11/01/93
- B. Revised Effective Date: 04/01/94
- C. Revised Effective Date: 08/16/99
- D. Revised Effective Date: 11/07/05
- E. Revised Effective Date: 12/08/05

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.3 Nepotism and Fraternalization

_____ Larry Crawford, Department Director	April 1, 2006 Effective Date
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I. PURPOSE: This procedure establishes guidelines to ensure nepotism does not occur in the department and to prohibit fraternization in most cases. The department acknowledges that nepotism and fraternization create the perception among employees that the subordinate employee receives special favors or working conditions based on the relationship. These types of relationships may create a conflict of interest and adversely impact the workplace. The procedures established herein will ensure that if such relationships exist, appropriate remedial action will be taken and further ensure that remedial action does not inadvertently discriminate based on gender, ethnicity, age or handicap.

- A. AUTHORITY: Article VII, Section 6, Missouri Constitution
217.040 RSMo
- B. APPLICABILITY: All employees within the department.

II. DEFINITIONS:

- A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the work site, as designated below. Exception: Employees at a work site who do not report to the work site chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.
 - 1. Director's Office:
 - a. Deputy Director
 - 2. Department Sections in the Director's Office:
 - a. Deputy Director
 - b. Central Office Section Heads
 - 3. Division of Probation and Parole:

- a. Division Director
 - b. Chief State Supervisor
 - c. Assistant Division Directors
 - d. Superintendents
 - e. Regional Administrators
 - f. District Administrators
4. Division of Adult Institutions:
- a. Division Director
 - b. Assistant Division Directors
 - c. Assistant to Division Director
 - d. Superintendents
5. Division of Offender Rehabilitative Services:
- a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Central Office Section Heads
6. Division of Human Services:
- a. Division Director
 - b. Central Office Section Heads

- B. Nepotism: Hiring or providing benefits to a relative through the powers of an employee's office, regardless of that employee's rank.
- C. Relative: For the purpose of this procedure, relative shall be defined as spouse, parents, children, grandparents, grandchildren, siblings, first cousins, aunts, uncles, nephews and nieces, and shall include in-law, blood, step and all foster relationships.

III. PROCEDURES:

- A. Department employees will not hire/appoint, cause to be hired/appointed in any manner or provide a referral or recommendation for hiring or appointment, of any relative.
1. This does not prohibit an employee from hiring or appointing a relative of another employee if the relative will not be involved in the hiring, appointing or approving process nor the direct or indirect supervision of the employee.
- B. Relatives may be permitted to work at the same work location, but shall not be placed in any type of monitoring or supervisory role over one another or through the regular chain of command. Examples:

1. When the department employs or promotes a person into a position that would normally be supervised by a relative or would normally supervise a relative, the department may waive section III. B. of this procedure providing that alternative means of supervision and oversight are arranged in writing and approved by the department director.
 - a. A waiver may not be granted for section III. B. 2. or 3. of this procedure.
 2. Relatives of the department director and the deputy director will not be hired into any position within the department during the tenure of the department director or the deputy director.
 - a. Relatives who are working within the department at the time the department director or deputy director is appointed will be permitted to retain their position as long as they are not in the immediate supervisory chain of command and it does not create a conflict of interest.
 - b. Employment related decisions about relatives of the department or deputy directors should be made by the division directors as a group.
 3. Relatives of a division director will not be hired to work in her/his division, although a relative may work in another division or for a contract provider.
 - a. Relatives who are working within the division at the time the division director is appointed will be transferred to another division of service, if possible.
 - b. If transfer is not possible, the employee will not be permitted to work within the immediate supervisory chain of command and the deputy director will make all employment related decisions.
 4. Relatives of an assistant division director, regional administrator and assistant to the division director may work in a facility/section that is not under their jurisdiction or for a contract provider.
 5. Relatives of a chief administrative officer of a work site may not have any relative work in that work site, unless the relative is working for another division or a contract provider.
- C. Individuals who are in the top 15 or 15% of eligible persons

considered for a new hire or promotional register cannot be eliminated from consideration, but cannot be hired, promoted or transferred into positions that would bring them into conflict with the procedure.

- D. In accordance with D2-11 Employee Standards, employees will not attempt to provide, or cause to be provided, favors, contracts or business benefits to any relatives.
- E. Employees are responsible for notifying the chief administrative officer of the work site in the event that a relative is inadvertently placed in an employee's chain of command.
- F. When incidents occur that bring employees in conflict with the procedure, such as the marriage of two employees, every effort will be made to reconcile the situation.
 - 1. If a suitable solution cannot be identified to resolve the conflict, then one employee may be transferred to another work location.
 - 2. The employee who is transferred will not necessarily be the subordinate employee. The needs of the work location, as well as the employees will be taken into consideration.
 - 3. The department director, deputy director or division director as appropriate shall be contacted for final approval.
- G. Fraternization:
 - 1. Effective April 1, 2006, all department employees are prohibited from having a personal relationship with a supervisor or a subordinate in their chain of command.
 - a. When necessary for the good of the service, the chief administrative officer or division director may authorize exceptions to this rule. Such authorization must be in writing.
 - b. A "personal relationship" is a relationship that consists of more than mere social interaction between individuals; it includes, but is not limited to, romantic involvement with another person, dating, sexual activity, or cohabitation.
 - (1) Procedures for married employees are set forth in the preceding sections concerning nepotism.
 - c. In addition to direct supervision, the chain of

command includes employees who lack direct supervisory responsibilities over a subordinate, but who are in a position to influence the conditions of employment of the subordinate by sitting on interview panels, making job assignments, approving requests for leave, and similar actions.

2. Pre-existing relationships: If a supervisor and subordinate are in a personal relationship on April 1, 2006, and if that relationship existed before April 1, 2006, each employee has an independent obligation to report the relationship in writing to the chief administrative officer before May 1, 2006.
 - a. The chief administrative officer may approve the indefinite continuation of the supervisor-subordinate relationship if the personal relationship was properly reported and the chief administrative officer determines the personal relationship has not been detrimental to the workplace. Such approval must be in writing.
 - b. If the relationship becomes detrimental to the workplace, the chief administrative officer shall proceed as provided in section III.G.4.
3. If a promotion, temporary assignment or other employment action causes employees having a personal relationship to be placed in the same chain of command, each employee must immediately report the existence of their relationship in writing to the chief administrative officer.
4. Upon receiving notification as required in III.G.3., the chief administrative officer shall review the facts and shall, in furtherance of the interests of the department, perform one or more of the following acts.
 - a. Reassign either or both employees to different shifts, posts, or duties so that the supervisor is no longer in the chain of command of the subordinate.
 - b. Refer the matter to the division director to determine whether either or both employees should be transferred pursuant to department procedure D2-2.13 Transfer of Employees.
 - (1) However, the subordinate employee may not be involuntarily transferred unless that is the only reasonable means of adequately addressing the situation.

- c. Refer the matter to the division director to determine whether the supervisory relationship may temporarily continue despite the continued personal relationship when it does not appear to be detrimental to the workplace and both the supervisor and the subordinate agree to the arrangement.
 - (1) This supervisor-subordinate relationship may continue for no more than 90 days after the relationship is reported if the 2 employees are still involved in a personal relationship.
 - (2) When the temporary continuation of the supervisory relationship is authorized, the supervisor may not complete a performance appraisal of the subordinate, participate in an interview panel or otherwise recommend the subordinate's promotion, or perform any other action which would give rise to an appearance of impropriety because of the personal relationship.
 - d. Refer the matter to the division director to determine whether a directive to terminate the personal relationship should be issued.
 - e. Take other actions to ensure compliance with this procedure.
5. If a supervisor and a subordinate desire to enter into a personal relationship which would be prohibited by this procedure, they may jointly or individually submit a written request to the chief administrative officer, who shall proceed as provided in section III.G.4.
6. Employees who have been permitted to continue in their supervisor-subordinate roles despite their personal relationship have an independent obligation to notify the chief administrative officer when their personal relationship ends or deteriorates to a point that it is not appropriate for the supervisor to continue to supervise the subordinate.
- a. In such cases, the chief administrative officer may exercise any option set forth in section III.G.4.
7. Employees who violate any part of this procedure regarding fraternization are subject to the full range of discipline, up to and including dismissal.

IV. ATTACHMENTS:

- A. None.

V. REFERENCES:

- A. D2-11 Employee Standards

VI. HISTORY:

- A. Original Effective Date: 05/19/87
- B. Revised Effective Date: 02/08/88
- C. Revised Effective Date: 04/01/93
- D. Revised Effective Date: 10/01/97
- E. Revised Effective Date: 06/14/01
- F. Revised Effective Date: 05/02/02
- G. Revised Effective Date: 04/01/06

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.9 Tobacco Use Limitations

January 19, 2004

Gary B. Kempker, Department Director

Effective Date

I. PURPOSE: This procedure establishes limitations on the use of tobacco products on department owned or leased property.

A. AUTHORITY: 191.767, 217.040, 217.360 RSMo

B. APPLICABILITY: This procedure applies to all employees of the department as well as all visitors and offenders. This does not impact employees living in state housing.

C. SCOPE: Nothing in this procedure is intended to give a protected liberty interest to any offender. This procedure is intended to guide staff actions.

II. DEFINITIONS:

A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

a. Deputy Director

2. Department Sections in the Director's Office:

a. Deputy Director

b. Central Office Section Heads

3. Division of Probation and Parole:

a. Division Director

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c. Superintendents

d. Regional Administrators

- e. District Administrators
- 4. Division of Adult Institutions:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Assistant to Division Director
 - d. Superintendents
- 5. Division of Offender Rehabilitative Services:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Central Office Section Heads
- 6. Division of Human Services:
 - a. Division Director
 - b. Central Office Section Heads
- B. Department of Corrections Facilities: An institution complex, including one or more buildings identified as a unit of the department, or any warehouse, structure, building or office space whether owned, leased or operated by the department of corrections.
- C. Employee: A person who performs duties for the department including full and part-time employees, volunteers, interns and contract employees (persons who provide specific services within the department on contractual basis).
- D. Legal Age: A person 18 years or older.
- E. Smokeless Nontobacco Alternative: All types of nontobacco chewing blends, as well as all forms of nontobacco snuff.
- F. Smokeless Tobacco: All types of chewing tobacco as well as all forms of snuff.
- G. Tobacco Products: Cigarettes, cigarette papers, clove cigarettes, cigars, smokeless tobacco, smoking tobacco, any smoked or chewed product, or other forms of tobacco products and paraphernalia.

III. PROCEDURES:

- A. All work locations will be restricted as follows:
 - 1. The possession/use of smokeless tobacco or smokeless nontobacco alternatives is prohibited for health, safety and security concerns.

2. Use of tobacco products is prohibited in all buildings and offices or any enclosed areas operated exclusively by the department of corrections, including offender living areas.
3. Tobacco product use is prohibited in all state owned or leased vehicles.
4. Offenders may possess tobacco products in an amount not to exceed the limits specified on the approved offender authorized personal property list.
 - a. Offenders who are not of legal age are prohibited from purchasing, possessing or using tobacco products of any type.
 - b. Offenders who are of legal age are prohibited from providing tobacco products to offenders who are not of legal age.
5. Smoking is permitted outdoors provided tobacco products are disposed of in a receptacle designed for that purpose.
 - a. The chief administrative officer/designee of the worksite shall designate areas outdoors for smoking.
 - b. Offenders who are of legal age may purchase and possess tobacco products as long as they are in compliance with these regulations. Offenders who do not comply with these regulations may lose the privilege of purchasing, possessing or using tobacco products.
 - c. Offenders who meet the criteria to purchase or possess tobacco products will be allowed to smoke at approved times in designated areas.

IV. ATTACHMENTS:

- A. None

V. REFERENCES:

- A. IS22-1.1 Offender Authorized Personal Property

VI. HISTORY:

- | | |
|-----------------------------|----------|
| A. Original Effective Date: | 10/21/87 |
| B. Revised Effective Date: | 12/01/90 |
| C. Revised Effective Date: | 08/19/91 |
| D. Revised Effective Date: | 07/01/96 |
| E. Revised Effective Date: | 04/01/98 |

- F. Revised Effective Date: 07/01/03
- G. Revised Effective Date: 01/19/04

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.10 Employee Conduct

Dora B. Schriro, Department Director May 15, 2000
Effective Date

I. PURPOSE: This procedure provides guidance concerning employee professionalism, conduct and job performance.

A. AUTHORITY: 105.055, 217.040, Chapter 36 RSMo; 1 CSR 20-3.070.2

B. APPLICABILITY: All employees of the Department of Corrections.

II. DEFINITIONS:

A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the work site, as designated below. Exception: Employees at a work site who do not report to the work site chief administrative officer will be approved by assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

- a. Deputy Director
- b. Assistant Deputy Director

2. Department Sections in the Director's Office:

- a. Deputy Director
- b. Assistant Deputy Director
- c. Central Office Section Heads

3. Division of Probation and Parole:

- a. Division Director
- b. Chief State Supervisor
- c. Assistant Division Directors
- d. Superintendents
- e. Probation & Parole Administrators
- f. District Administrators

4. Division of Adult Institutions:

- a. Division Director
- b. Assistant Division Directors
- c. Assistant to Division Director
- d. Superintendents

5. Division of Offender Rehabilitative Services:

- a. Division Director
- b. Assistant Division Directors
- c. Superintendents
- d. Central Office Section Heads

6. Division of Human Services:

- a. Division Director
- b. Central Office Section Heads

B. Immediate Family: For the purpose of this procedure, immediate family shall include:

- 1. spouse,
- 2. parents/step-parents and their spouses,
- 3. siblings/step-siblings and their spouses,
- 4. grandparents/step-grandparents and their spouses,
- 5. legal guardian and their spouse,
- 6. children/step-children and their spouses,
- 7. one person designated as a significant other, and
- 8. grandchildren/step-grandchildren.

C. Offender: Any individual under the custody/supervision of the Department of Corrections.

D. Unavoidable Contact: The department realizes that employees may have family members who are under the supervision or custody of the department. Employees may, by present or future social and/or business association, come into contact with an offender and/or offender family members. Therefore, an employee may not be able to completely avoid association with offenders or their families. However, it should be understood by employees that these types of association may create a conflict of interest.

III. PROCEDURES:

A. Professional Principles:

1. As employees of the Missouri Department of Corrections, we strive toward excellence in our every action and adhere to professional principles that guide us in making ethical decisions and acting in an ethical manner.

We believe:

- a. that public trust is enhanced when staff abide by the laws and adhere to the highest level of ethical and moral behavior;
- b. in the continuous pursuit of organizational excellence;
- c. that all persons should be treated respectfully, fairly, honestly and with dignity;
- d. in the empowerment of all staff to perform their job responsibly;
- e. that our actions affect the safety and security of everyone; public trust and public confidence are enhanced by our professional and personal conduct and our actions influence the public's opinion of our organization;
- f. in the power of team work;
- g. that all individuals must be accountable for their actions;
- h. in the importance of looking for similarities while also accepting and respecting the differences in people;
- i. that effective and open communication at all levels is essential;
- j. in the continuous development of staff.

B. Employee Personal Code of Conduct:

1. As an employee of the Missouri Department of Corrections, I strive toward excellence in my every action and adhere to professional principles that guide me in making ethical decisions and acting in an ethical manner.

I believe:

- a. that public trust is enhanced when I abide by the laws and practice the highest level of ethical and

moral behavior;

- b. I should always strive for excellence;
- c. I should treat all people with respect, fairness, honesty and dignity;
- d. I should always perform my job in a responsible manner;
- e. my actions affect the safety and security of everyone;
- f. I have the responsibility to report inappropriate actions or misconduct of my peers to appropriate personnel and they must do the same should I falter;
- g. I look for the similarities but also accept and respect the differences in people;
- h. my peers and I are most effective when we communicate openly with each other;
- i. my ability to continue to provide the best service to the department and the public is incumbent on my continued growth and development.

C. Professionalism:

1. Employees are required to be familiar with and adhere to:
 - a. their respective job components and job expectations established through the performance appraisal system;
 - b. the policies and procedures relating to their job function;
 - c. the employee handbook;
 - d. D2-11 Employee Standards, which details the code of ethics for government service and the department code of ethics, as well as D2-11.8 Employee Personal Appearance, which sets standards for employee personal appearance;
 - e. the departmental Professional Principles; and
 - f. the Employee Personal Code of Conduct.
2. Employees are expected to represent to the public the highest moral, ethical and professional standards and must accept as a condition of employment a code of

personal conduct beyond that of an employee in the private sector or some other public sector positions.

3. Employees are expected to create by their attitude, dress, language and general demeanor a working environment free from actual or implied discrimination or harassment of any nature relating to race, color, religion, creed, sex, national origin, age or disability (or perceived disability).
- D. Causes For Suspension, Demotion and Dismissal: Employees may be suspended, demoted or dismissed for willful violation of any provisions of the State Merit System Law or of the rules of the Personnel Advisory Board or D2-11 Employee Standards.
- E. Association With Offender, Offender's Family and/or Significant Others:
1. It is unprofessional for an employee to have any avoidable contact or association with an offender, the offender's family and/or significant other unless specifically authorized as part of their job function while the offender is under the custody or supervision of the department.
 - a. Contact includes, but is not limited to, oral or written communication, business or social associations and any other act of over familiarity.
 2. Employees who have family members, significant others or have unavoidable contact with an offender under the jurisdiction of the department, are required to notify in writing the chief administrative officer of their work site through the chain of command. Said notice shall be placed in the employee's working personnel file.
 - a. The department reserves the right to request that an employee discontinue such contact or association.
 - b. The request to discontinue association shall be in writing from the assistant director of the appropriate division.
 - c. Failure to obey this request can result in disciplinary action.
 3. Employees shall not give their own or fellow employee telephone numbers or addresses to an offender, offender's family and/or significant others, unless specifically authorized.
 4. Employees are strictly prohibited from receiving or

giving anything to an offender, offender's immediate family member and/or significant other, except those items authorized in the usual course of business.

5. Employees shall not remove from or bring into, or attempt to remove from or bring into, an institution or other area under jurisdiction of the department any article, message or letter for an offender without proper authorization, unless such is a part of their job function.
- F. Arrest of an Employee: All arrests, indictments and/or convictions, including suspended imposition of sentence and suspended execution of sentence, for other than traffic violations, are to be immediately reported to the employee's immediate supervisor. This shall include the reason for arrests, indictments or convictions for all felony charges, any non-traffic misdemeanor offenses and for the traffic offense of driving while intoxicated or under the influence of alcohol or drugs.
1. Traffic arrests or tickets received while operating a state vehicle shall be reported in writing to the immediate supervisor.
 2. In the event an employee is to appear in court on a charge other than for a minor traffic violation, the employee shall advise her/his supervisor prior to the scheduled court date. In any case other than minor traffic violations which resulted in the arrest or indictment of an employee, the involved employee shall advise her/his supervisor of the disposition of the case.
 3. The employee shall provide a detailed written report by the next work day explaining the circumstances surrounding the arrest or indictment, including the date of arrest.
 4. Upon request the involved employees shall authorize in writing appropriate departmental officials to obtain copies of investigative reports related to the case under investigation.
 5. Supervisors will maintain copies of reports, documents and correspondence relative to arrest of an employee in the working file. If the incident is of sufficient importance to be reported to higher levels of authority, copies of all reports, documents and correspondence will be forwarded with the report of the incident.
- G. Reporting Misconduct:
1. Employees having knowledge of any instances of offender

abuse shall immediately report such to the inspector general in accordance with D5-3.5 Offender Abuse.

2. Employees are obligated to immediately report any misconduct as described in this procedure through the appropriate chain of command. If there is reason to believe that an employee in the chain of command may be involved in the alleged misconduct, then the employee should report the matter to the next higher level of management in the department. A copy of Missouri Statute 105.055 will be posted in locations where it can reasonably be expected to come to the attention of all employees of this department.
 - a. Employees shall report actual or attempted theft of department property or the property of others.
 - b. Employees shall report any unauthorized possession of, loss or damage to state property or the property of others, or endangering of state property or property of others through carelessness.
 - c. Employees shall report any neglect of job responsibility on the part of an employee which would jeopardize the security of the work place.

H. Reporting Mismanagement:

1. No supervisor or appointing authority of the department shall prohibit any employee of the agency from discussing the operations of the agency, either specifically or generally, with any member of the legislature or the state auditor.
2. No supervisor or appointing authority of the department shall:
 - a. prohibit an employee from or take any disciplinary action whatsoever against a state employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:
 - (1) a violation of any law, rule or regulation; or
 - (2) mismanagement, a gross waste of funds or abuse of authority, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law; or
 - (3) requires any such employee to give notice to

the supervisor or appointing authority prior to making any such report.

3. This section shall not be construed as:
- a. prohibiting a supervisor or appointing authority from requiring that an employee inform the supervisor of legislative requests for information about the agency; or the information provided, or to be provided, to legislators;
 - b. permitting an employee to leave the employee's assigned work area during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the employee is requested by a legislator or legislative committee to appear before a legislative committee;
 - c. authorizing an employee to represent the employee's personal opinions as the opinions of a state agency; or
 - d. restricting or precluding action taken against a state employee if the employee knows the disclosure to be false or which the employee discloses with reckless disregard for its truth or falsity; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

IV. ATTACHMENT:

- A. None

V. REFERENCES:

- A. D2-11 Employee Standards
- B. D2-11.8 Employee Personal Appearance

VI. HISTORY:

- A. Original Effective Date: 05/08/89
- B. Revised Effective Date: 04/23/90
- C. Revised Effective Date: 09/15/93
- D. Revised Effective Date: 04/20/99
- E. Revised Effective Date: 05/15/00

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.11 Employee Drug Testing

_____ Larry Crawford, Department Director	May 20, 2005 Effective Date
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I. PURPOSE: This procedure outlines actions to be taken to identify and respond to employees who are suspected of substance abuse. It is the policy of the department to discipline, up to and including termination, employees who violate the drug free workplace policy and procedures. Violations include, but are not limited to: positive tests, refusal to test, adulterated tests and substituted tests.

- A. AUTHORITY: 217.040, Chapter 195 RSMo
- B. APPLICABILITY: All employees of the department. Employees with commercial driver's licenses will be subject to additional testing as specified in D4-4.5 Commercial Driver's License (CDL) Drug/Alcohol Testing Requirements.

II. DEFINITIONS:

- A. Adulterated Sample: For the purpose of this procedure, a urine specimen which, as shown through testing, contains a substance that would not normally be present in human urine, or contains a substance expected to be present, but in a higher concentration than what would be expected in a normal human urine.
- B. Chain of Evidence: The term used to describe the process of documenting the handling and storage of a specimen from the time an employee gives the specimen to the collector to the disposition of the specimen.
- C. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

- 1. Director's Office:
 - a. Deputy Director

2. Department Sections in the Director's Office:

- a. Deputy Director
- b. Central Office Section Heads

3. Division of Probation and Parole:

- a. Division Director
- b. Chief State Supervisor
- c. Assistant Division Directors
- d. Superintendents
- e. Regional Administrators
- f. District Administrators

4. Division of Adult Institutions:

- a. Division Director
- b. Assistant Division Directors
- c. Assistant to Division Director
- d. Superintendents

5. Division of Offender Rehabilitative Services:

- a. Division Director
- b. Assistant Division Directors
- c. Superintendents
- d. Central Office Section Heads

6. Division of Human Services:

- a. Division Director
- b. Central Office Section Heads

D. Collection Site: A facility (permanent or temporary) where an employee provides a specimen for a drug test.

E. Collector: The departmentally trained and approved individual who is responsible for collecting a urine specimen or administering a drug test to an employee. The collector should not be related to the employee (spouse, ex-spouse, relative).

F. Controlled Substance: A drug, substance, or immediate precursor in Schedule I. through V. as listed in Chapter 195 RSMo.

G. Critical Incident: A situation occurring in the course of performance of duty which results in damage to property or which causes, or has the immediate potential of causing, physical injury or death to any person. Critical incidents that may require a staff member to undergo testing are:

1. an accident involving agency property,
 2. an accident involving agency property where injury resulted,
 3. physical altercation (disruptive behavior) involving injury to an employee or offender,
 4. discharge of a weapon during a training session or on duty, other than as directed or required,
 5. discharge of a weapon which results in injuries to an employee, an offender, or civilian, or
 6. discharge of a weapon which results in death of an employee, an offender, or civilian.
- H. Department Employee Test Coordinator: An employee designated by the department director/designee to coordinate alcohol and controlled substance testing with the worksite employee test coordinators, contracted alcohol/drug test vendors, and department toxicology laboratory. Normally, this individual will be the employee health coordinator and/or safety coordinator.
- I. Diluted Specimen: For the purposes of this procedure, a urine specimen which, as shown through testing, has a creatinine level that could indicate excessive amounts of fluid were consumed that would reduce drug levels in the specimen and specific gravity levels at a level lower than expected in a normal human urine.
- J. Drug Abuse: The use of any illegal drug or any illegally obtained drug.
- K. Drug Misuse: The overuse or inappropriate use of any legally obtained prescription or nonprescription drug.
- L. Employee: Any person who is employed by the department including:
1. persons who are contracted to perform services within a department facility (i.e., medical services, mental health services, education services, substance abuse services, information systems, etc.) and have been issued a permanent department identification card,
 2. full-time, part-time, temporary and per diem employees,
 3. volunteers in corrections,
 4. student interns,

5. other persons who are issued a permanent department identification card or volunteer/student intern classification card.
- M. Employee Health and Safety Coordinator: A person who coordinates activities in the employee health and safety unit.
- N. Employee Health File: A confidential file at the work location which contains information concerning employee's work related medical care/issues such as workers' compensation, tuberculosis test results, Hepatitis A and Hepatitis B vaccinations and all other relevant medical information.
- O. Followup Testing: An employee who provides a urine specimen that is identified as positive, adulterated, substituted, or a refusal is required to undergo 6 additional random urine collections within the next calendar year.
- P. Illegal Drug: Any substance for which the possession, sale, distribution, manufacture, or use by unlicensed persons is prohibited by law.
- Q. Medical Review Officer (MRO): A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.
- R. Nonprescription Drug: Any substance which is not legally controlled and is available without a medical prescription but which, when improperly or inappropriately used, may hamper the ability to perform assigned duties or impair judgment, alertness, and any other physical, emotional, and mental capacity.
- S. Post Accident Testing: Testing conducted after an accident when an employee is operating a state vehicle and is directly involved in an accident. The accident must have occurred on a public roadway and at least one or more of the following occurs:
1. a fatality,
 2. an injury requiring immediate medical treatment away from the accident scene,
 3. a citation from a law enforcement agency to the employee for a moving traffic violation arising from the accident, or
 4. disabling damage to one or more motor vehicles as a result of the accident which requires the vehicle to be towed away from the scene of the accident. This does not

include an accident in which the vehicle is pulled back on to the road and the driver can safely continue driving the vehicle.

- T. Prescription Drug: Any controlled substance for which possession and use is legal when prescribed by licensed medical personnel.
- U. Prospective Employee: Individuals that are being offered a position within the department.
- V. Random Testing: Selection from a group of employees so that each employee has an equal chance to be selected. This selection shall be made by a computer program or by other means as determined by the Planning, Research and Evaluation unit of the department so as not to target a specific employee.
- W. Reasonable Suspicion: Specific facts which are sufficient to lead a reasonable person to suspect that an employee may be under the influence of a substance or using or misusing a drug. Reasonable suspicion may exist when any of the following, alone or in combination, are observed:
 - 1. slurred speech,
 - 2. alcohol odor on breath,
 - 3. unsteady walking and movement,
 - 4. unusual behavior,
 - 5. verbal altercation (disruptive behavior),
 - 6. a positive reaction from drug interdiction equipment,
 - 7. a positive reaction from a narcotic detection dog,
 - 8. possession of alcohol or illicit drugs,
 - 9. a positive test result from an evidential breath tester,
 - 10. information obtained from a reliable person or reliable information/documented information, or
 - 11. other substantiated circumstances.
- X. Relative: For the purpose of this procedure, relative shall be defined as:
 - 1. spouse,
 - 2. parents,

3. children,
4. grandparents,
5. grandchildren,
6. siblings,
7. first cousins,
8. aunts,
9. uncles,
10. nephews,
11. nieces, and
12. shall include in-law, blood, step and all foster relationships.

Y. Reliable Person: A person who has:

1. provided accurate information in the past,
2. has personal knowledge of the facts being relayed, or
3. is generally known as reliable, honest and trustworthy.

Z. Return to Duty - Drugs: An employee who provides a urine specimen that is identified as positive, adulterated, substituted, or a refusal is required to provide a urine sample that is negative for the results of drugs prior to returning to duty, if employment continues with the department.

AA. Safety Coordinator: An employee assigned to the employee health and safety unit that is responsible for coordinating and assisting with activities relating to health and safety in all departmental facilities.

BB. Safety Manager: An employee who is responsible for health and safety plans and conducting health and safety inspections at a facility. This position was previously referred to as the fire and safety specialist.

CC. Substance Abuse: An incident or pattern of alcohol or drug misuse.

DD. Substance Abuse Professional: A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association

of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances and related disorders.

- EE. Substance Abuse Test: The analytical testing of a urine or saliva specimen for the purpose of detecting the recent use of illicit or unauthorized substances.
- FF. Substituted Sample: For the purposes of this procedure, a urine specimen in which the creatinine and specific gravity levels are so diminished that they are not consistent with human urine.
- GG. Test Designated Positions: For the purposes of random drug/breath alcohol testing of department staff, test designated positions encompass safety-sensitive and security-sensitive positions that meet one or more of the following criteria:
 - 1. Secured perimeter - regularly performs duties inside the secured perimeter of a correctional center.
 - 2. Contact with offenders in custody - has regular, unsupervised access to or interaction with offenders who are confined in a correctional center.
 - 3. Firearms - uses or carries a firearm or is authorized to carry a firearm in connection with official duties (whether on duty or off duty).
 - 4. Drug treatment and supervision - provides drug counseling or drug use monitoring of offenders (whether in custody or on probation and parole).
 - 5. Health care - provides direct health care to offenders or staff.
 - 6. Motor vehicle - drives a motor vehicle as one of the principal activities of the position or possesses a commercial driver's license as a condition of employment.
 - 7. Dangerous equipment - regularly uses or operates equipment or machinery which could cause death or serious physical injury. (This does not include small equipment such as a lawnmower or the occasional use of a motor vehicle.)
 - 8. Information systems - has the authority to access computer systems operations and thereby able to disrupt central or remote computer systems, to destroy all computer data on those systems, and to interrupt or corrupt the recovery process.

9. General - any position in which a single drug related lapse could have irreversible and disastrous consequences for any aspect of the department's operations.

HH. Trace Technology Equipment: Equipment which detects and measures the presence of vapors and microscopic particles of narcotics and/or explosives, such as the itemiser and EntryScan 3 equipment.

II. Worksite Employee Test Coordinator: An employee designated by the chief administrative officer who arranges for substance abuse testing and coordinates with the department employee test coordinator.

III. PROCEDURES:

A. General Information:

1. Drug Free Workplace: The use and/or possession of illegal drugs on or off duty and impairment from prescribed drugs by department employees in the workplace jeopardizes the agency's ability to carry out its public safety mission and will not be tolerated.

- a. Employees must submit a written report to their immediate supervisor when they are taking medications that are impairing her/his mental or physical abilities to perform the essential functions of her/his job.

- b. Employees operating state vehicles should refer to D4-4.1 State Vehicles.

- c. Employees using firearms while on duty should refer to:

- (1) D2-16.1 Firearms Probation & Parole,
 - (2) D2-16.2 Fugitive Apprehension Section,
 - (3) IS20-2.1 Firearms.

2. Employee substance abuse may:

- a. impair an employee's ability to perform the functions of her/his job,

- b. reduce the employee's ability to perform her/his job safely, or

- c. jeopardize the safety of the work place and/or coworkers.

3. Substance Abuse is a threat to the health, safety and

welfare of employees and undermines the public's trust

in the character and professionalism of our employees and is, therefore, prohibited.

4. Use of illegal drugs and/or abuse of prescription drugs within the workplace can cause:
 - a. drowsiness,
 - b. loss of concentration, memory, or judgment,
 - c. distortion of reality,
 - d. poor coordination, and
 - e. slow reaction time.
5. Those employees who use and/or possess illegal drugs or are impaired because of prescribed drugs within the workplace put themselves and everyone around them in danger.
6. The use, possession or dispensing of drugs or any controlled substance without a valid or current medical prescription, on or off duty by employees of the department, will not be tolerated.

B. Rights and Privacy:

1. The rights and privacy of employees will be safeguarded to the maximum extent possible while being balanced with the compelling government interest in maintaining a drug-free law enforcement agency.
2. All records, forms, reports and/or results generated in compliance with this procedure will be confidential.
 - a. Negative test results will be returned to the chief administrative officer of the worksite for placement in the employee human resources working file for a period of 1 year.
 - b. Positive test results will be returned to the chief administrative officer of the worksite for review and disciplinary action will be processed in accordance with D2-9.1 Employee Discipline.
3. Any unauthorized disclosure of confidential information regarding suspected employee substance abuse is subject to disciplinary action, which may include termination.

4. Each person involved in the reporting of an administrative inquiry or investigation on allegations of substance abuse shall provide a written report to the chief administrative officer/designee during the work period in which her/his involvement took place.
 - a. The chief administrative officer/designee shall ensure all reports are present and all facts are documented, including the circumstances leading up to the test.

C. Worksite Employee Test Coordinator:

1. Substance abuse testing will be conducted by the:
 - a. safety manager,
 - b. safety coordinator,
 - c. employee health unit nurse,
 - d. chief administrative officer/designee, or
 - e. contracted vendor as determined by the employee health and safety coordinator.

D. General Testing Guidelines:

1. All employees will be informed of the detrimental impact of drugs as it affects them at the workplace using the Employee Drug and Alcohol Testing Program Employee Notification form (Attachment A).
2. Substance abuse educational material should be provided to all employees annually by the employee health unit.
3. Trace technology equipment may be used as provided in D2-11.13 Employee Searches.
4. The following situations/conditions may require substance abuse testing to be conducted on employees or prospective employees:
 - a. preemployment,
 - b. reasonable suspicion,
 - c. random,
 - d. critical incident,
 - e. post accident,

- f. return to duty, and
 - g. follow up.
- 5. Failure, or refusal to submit to testing, will result in further action being initiated.
- 6. All costs/expenses associated with substance abuse testing conducted by the department toxicology laboratory or contracted laboratories will be paid by the department.
 - a. An employee who has provided a positive specimen may send their specimen to a certified laboratory (Clinical Laboratory Improvement Amendment, College of American Pathologists, Substance Abuse and Mental Health Services Administration).
 - (1) Employees may request within 72 hours from time of notification or being placed on administrative leave to have the sample sent to an approved outside laboratory.
 - (2) Request must be submitted through the superintendent of the department toxicology laboratory.
 - (3) All costs/expenses associated with testing at the request of the employee will be at the employee's expense.
- 7. Time spent taking substance abuse tests will be considered work time.
- 8. When conducting both a breath alcohol and drug testing, the breath alcohol screening test will be completed prior to the urine collection.
 - a. If a breath alcohol confirmation test is required, the confirmation test should also be performed prior to the urine collection.
- 9. The department employee test coordinator will be notified of all testing requested of an employee for:
 - a. reasonable suspicion,
 - b. critical incident, or
 - c. post accident.
- 10. The department employee test coordinator will contact the worksite chief administrative officer on all positive substance abuse test results as determined by the

department toxicology laboratory for illegal drugs.

- a. A hard copy of the results shall be forwarded to the chief administrative officer.
 - b. Disciplinary action shall not be pursued until completion of confirmation of the results by the medical review officer.
11. An initial positive test result does not automatically identify an employee or prospective employee as an illegal drug user.
- a. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of the results.
 - b. This review shall be performed by the medical review officer prior to the transmission of results to the division director or the chief administrative officer.
 - c. The medical review officer shall review all medical records made available by the employee/prospective employee when a confirmed positive test could have resulted from legally prescribed medication.
 - d. If the medical review officer determines there is a legitimate medical explanation for the positive test result, no further action should be taken and the test shall be reported as negative.
12. Substance abuse test results as determined by the department toxicology laboratory for prescription drugs will be forwarded to the medical review officer for evaluation.

E. Disciplinary Action For Use of Drugs:

- 1. All disciplinary action will be taken in accordance with D2-9.1 Employee Discipline.
- 2. Employees who test positive for illicit drugs will be dismissed from employment.
- 3. Employees who test positive for prescription drugs will be evaluated by the medical review officer and may be disciplined.
 - a. If the drug is properly prescribed by a physician, the employee's ability to properly and safely perform the job functions must be established before

returning to work.

- (1) The medications prescribed and the employee's job duties (i.e., corrections officer, commercial driver's license (CDL) driver, etc.) will be compared. Certain medications have precautionary warnings that need to be evaluated on a case-by-case basis and may also require a physician's evaluation.
4. If an employee admits to the use of illicit drugs prior to the day of drug testing or inquiry for reasonable suspicion use, the following actions will be taken:
 - a. The employee will submit to a urinalysis test in accordance with reasonable suspicion guidelines.
 - b. The employee will be placed on administrative leave.
 - c. The chief administrative officer will issue the employee a directive for mandatory referral to the employee assistance program in accordance with D2-7.9 Employee Assistance Program.
 - d. The chief administrative officer will conduct a pre-disciplinary hearing with the employee after the urinalysis test results are returned and will submit her/his findings to the division director/designee.
 - e. The division director/designee may impose discipline in accordance with D2-9.1 Employee Discipline and/or offer the employee the opportunity to address her/his substance abuse problem by taking sick leave, annual leave, compensatory leave or leave without pay, as applicable.
 - (1) The employee may return to work upon demonstration of compliance with the mandatory employee assistance program referral with documentation as outlined in D2-7.9 Employee Assistance Program.
 - (2) Before returning to work, the employee will be subject to return to duty testing.
 - (3) If the return to duty test results are negative, the employee will be subject to followup testing as outlined in the policy.
 - f. If the employee refuses the offer, the division director may choose to dismiss the employee.
5. After returning to work, if the employee relapses into

using illicit drugs, she/he must immediately advise the chief administrative officer of such.

- a. The same process as for admission of use will be followed.
- b. Only one admission of relapse will be permitted.

F. Test Designated Positions:

1. Positions in the department shall be categorized as test designated positions or nontest designated positions for the purpose of random drug testing.
2. Employees shall be notified of their status prior to implementation of random testing via the Employee Test Designated Position Receipt form (Attachment B) or the Employee Nontest Designated Position Receipt form (Attachment C).
 - a. If an employee believes her/his position has been wrongly classified, she/he may file an administrative appeal with the director.
 - (1) The employee must submit the administrative appeal in writing to the director within 15 calendar days of notification, setting forth all relevant information.
 - (2) The director's decision shall be considered as a final administrative decision.
 - b. If the employee refuses to sign the appropriate form, the employee's supervisor shall note on the form that the employee received the notice.
 - (1) This form is advisory only, and failure to provide a signed receipt form shall not preclude drug testing that employee.
 - c. Once an employee has signed the appropriate form, the employee shall not be required to sign a new form unless the employee changes from a test designated position to a nontest designated position and then changes back to a test designated position.
 - d. The signed receipt form shall be maintained in the employee's human resources file at the worksite.
3. Test designated positions shall be subject to drug testing under the following situations:
 - a. reasonable suspicion,

- b. random,
 - c. post accident,
 - d. critical incident,
 - e. return to duty, and
 - f. follow up.
4. Nontest designated positions will be subject to testing for those situations listed in III.D.4. except for random testing. Nontest designated positions are not subject to random testing unless the employee volunteers to have their name placed in the random selection pool.

G. Preemployment Testing:

1. After being offered a conditional appointment, but prior to beginning work, all prospective employees must submit to a preemployment drug test within 5 working days of notification.
 - a. An exception will be made for corrections officer I's hired under the centralized hiring process. If the prospective employee is not available by phone within 5 working days, she/he will have 7 calendar days from the date of the conditional appointment letter to submit to a preemployment drug test if there has been no conditional offer made by phone.
2. All prospective employees shall be notified by the appointing authority/designee that a drug test must be completed prior to employment in accordance with D2-2.1 Selection Procedures and that appointment will depend upon the outcome of the substance abuse testing.
 - a. Information will be provided as to when and where to test.
 - b. The appointing authority/designee will work with the collectors to set dates, times, and locations for testing.
 - c. When the prospective employee resides out-of-state, and is not able to arrange for a specimen to be collected at a department worksite, the drug test coordinator shall be contacted to make arrangements for one to be obtained. Any additional costs for this testing shall be the responsibility of the

hiring worksite.

- d. Failure to provide a urine sample after being scheduled for collection or failure to report for scheduled testing will be considered a refusal to comply with the department's substance abuse testing procedure. Individuals shall be notified in writing she/he will be ineligible for appointment for a period of 1 year.
- 3. Collection and testing will be handled in accordance with Section III.O. of this procedure, except for those instances where a prospective employee receives a negative drug test result during preemployment testing, but the result indicates trace amounts of illegal drugs.
 - a. If the toxicology laboratory identifies illegal drugs below the cutoff, but high enough to be confirmed in the confirmation laboratory, the results will be reported as irregular results.
 - b. If the sample is identified as diluted, the prospective employee will be recollected as outlined in section III.O.19.
 - (1) If the second sample is identified as diluted and the applicant does not possess documentation of a valid medical reason, the offer of employment will be withdrawn.
 - (2) The applicant may reapply during the next hiring cycle.
- 4. Drug test results must be received by the human resources unit at the worksite prior to allowing the prospective employee to report to work.
- 5. The job offer will be withdrawn for prospective employees testing positive for drugs, having adulterated or substituted samples, refusing to provide a urine sample, or having a test result that indicates trace amounts of illegal drugs.
 - a. The prospective employee will be notified in writing she/he will be ineligible for appointment for a period of 1 year.

H. Reasonable Suspicion Testing:

- 1. Any person having reasonable suspicion that an employee is under the influence of a substance should immediately inform the employee's supervisor.

2. When the supervisor believes that reasonable suspicion exists, the supervisor will immediately relieve the employee from duty and conduct an initial interview.
 - a. If after the interview, the supervisor believes reasonable suspicion exists, she/he will notify the chief administrative officer/designee.
3. The supervisor shall forward the information to the chief administrative officer/designee or the highest ranking staff member on duty through the appropriate chain of command, as developed at each worksite.
4. The chief administrative officer/designee will review the information and determine whether reasonable suspicion exists.
 - a. If reasonable suspicion exists, the chief administrative officer/designee shall meet with the employee to:
 - (1) discuss the matter,
 - (2) assess the situation, and
 - (3) determine the appropriate course of action which may vary depending on the situation.
5. The chief administrative officer/designee will decide whether or not to pursue a substance abuse test on a case-by-case basis.
 - a. If the chief administrative officer/designee determines that a substance abuse test is necessary, arrangements shall be made to have a urinalysis test conducted.
 - b. The chief administrative officer/designee shall inform the employee of the decision and explain how testing will proceed.
6. When requesting that an employee submit to a substance abuse test, a Substance Abuse Test form (Attachment D) shall be prepared. If a drug test is being performed, a Request for Urinalysis/Chain of Evidence - Employee form (Attachment E) shall be prepared.
 - a. The chief administrative officer/designee shall inform the employee that refusal to submit to the test will result in disciplinary action as outlined in D2-9.1 Employee Discipline which may include termination.

- b. The Substance Abuse Test form shall be signed by the employee and the chief administrative officer/designee.
- c. If the employee refuses or is unable to sign the Substance Abuse Test form, Chain of Evidence form, or initial label, it will be considered a refusal and the employee will be placed on administrative leave pending administrative action in accordance with D2-8.5 Administrative Leave.
 - (1) Such refusal or inability shall be witnessed by 2 staff persons.
 - (2) A sample will not be collected.
- d. If the employee refuses to submit to the substance abuse testing, the employee will be placed on administrative leave pending administrative action, per D2-8.5 Administrative Leave.
 - (1) Such refusal shall be witnessed by 2 staff persons.
- e. The supervisor/designee will remain with the employee until the drug test sample has been collected.
- f. If substance abuse testing cannot be completed within 2 hours following the determination of reasonable suspicion, the chief administrative officer/designee must prepare a report to the department employee test coordinator explaining why the test was not conducted.
- g. If the employee is submitting to a drug test, the employee will be placed on administrative leave pending drug testing results.
- h. If the following occurs, the chief administrative officer will initiate disciplinary action:
 - (1) an alcohol test result of 0.02 or greater,
 - (2) a positive substance abuse test result,
 - (3) employee refuses to take the substance abuse test,
 - (4) employee refuses to sign the Substance Abuse Test form, Chain of Evidence form, or initial label,

- (5) employee provides an adulterated or substituted sample.
 - i. If test results are negative, administrative leave status will be terminated.
- 7. The department recognizes that false accusations of substance abuse can have serious effects on employees. Therefore, intentional false accusations, known by the accuser to be false at the time made, will result in disciplinary action.
- I. Random Testing: All test designated positions within the department are subject to random drug testing.
 - 1. The department director/designee will determine the percentage of employees or worksites to be tested randomly.
 - 2. The research and evaluation unit director will develop a scientifically valid random selection tool.
 - 3. The department employee test coordinator will notify the collector when employees are selected for drug testing and the date by which the test must occur.
 - a. The collector will work with the chief administrative officer to ensure employees are available for testing.
 - b. The collector may contact the chief administrative officer to confirm the availability of the employee at the worksite.
 - (1) Contact should not exceed 24 hours prior to the scheduled collection.
 - (2) Advance notification shall not be provided to the employee.
 - c. The chief administrative officer/designee will notify the collector if the employee is unavailable for testing due to absence from work. In that event, a new date and time will be selected.
 - d. Substance abuse testing will be administered within 2 hours of the employee being notified.
- 4. Upon successful completion of a sample collection, the individual will immediately return to work.
- 5. Employees performing duties in a job classification not identified as a test designated position may volunteer to

have their name placed in the random selection pool.

- a. The employee will complete the Random Selection Pool Volunteer form (Attachment F) and forward to the department employee test coordinator.

- (1) A copy will be placed in the employee's human resources working file.

- b. The employee may withdraw her/his participation at any time from the random selection pool prior to being informed they have been selected for testing.

- c. The employee's name will remain in the random selection pool until separation of employment or completion of the Random Selection Pool Volunteer form to withdraw from the random selection pool.

J. Post Accident Testing:

1. Post accident testing shall include a breath alcohol test and a drug test when an employee is directly involved in an accident while operating a state vehicle.
2. The employee involved must inform the chief administrative officer/designee of the accident immediately, or as soon as possible.
3. The chief administrative officer/designee will contact the department employee test coordinator/designee.
4. As soon as practical following an accident, the employee must be tested.
 - a. If the substance abuse testing is not administered within 2 hours after the accident, the chief administrative officer/designee must forward a report to the department employee test coordinator explaining why the test was not conducted within the 2 hour timeframe.
 - b. If the urinalysis sample is not collected within 32 hours, attempts to collect the sample will cease and the chief administrative officer/designee will forward a written report of the situation to the department employee test coordinator.
5. Nothing in this procedure should be construed to cause the delay of necessary medical attention for injured persons following an accident, or to prohibit an employee from obtaining assistance as needed to respond to the accident or obtain necessary emergency medical care.

6. An employee who is subject to post accident substance abuse testing will remain readily available for testing. Failure to do so may be considered as having refused the test and disciplinary action may be imposed.

K. Critical Incident Testing:

1. A drug test, based upon employee involvement in a critical incident, will be conducted as determined by the chief administrative officer/designee after reviewing the facts.
2. The employee will be tested as soon as practical following the incident.
 - a. If the substance abuse test is not administered within 2 hours after the incident, the chief administrative officer/designee must forward a report to the department employee test coordinator explaining why the test was not conducted within the 2 hour timeframe.
 - b. If the urinalysis sample is not collected within 32 hours, attempts to collect the sample will cease and the chief administrative officer/designee will forward a written report of the situation to the department employee test coordinator.
3. Upon successful completion of a sample collection, the individual may return to work as determined by the chief administrative officer.

L. Return to Duty Alcohol and Drug Testing:

1. Return to duty drug testing will be required and coordinated between the chief administrative officer/designee and the department employee test coordinator.
2. Failure to complete a return to duty drug test successfully, or failure to take the return to duty drug test will result in disciplinary action in accordance with D2-9.1 Employee Discipline.

M. Followup Drug Testing:

1. If an employee returns to work after a negative return to duty drug test, the employee will be required to submit to followup testing. The employee must be referred and evaluated in accordance with D2-7.9 Employee Assistance Program.
2. Time spent in referral, evaluation, and/or treatment activities may be either paid time off (sick, annual,

compensatory leave) or leave without pay. The department will not assume financial obligation for the cost of treatment.

3. Upon return to work, the employee will be subject to unannounced testing.
 - a. Testing will be conducted at least 6 times in the first 12 months.
 - b. Testing may extend up to 5 years after returning to work.
4. Substance abuse tests will be conducted by a safety manager, safety coordinator, employee health unit nurse, or chief administrative officer/designee, or if not available, a contracted vendor.
5. The department employee test coordinator will assist the chief administrative officer and worksite employee test coordinator with coordinating the testing and verifying the treatment.
 - a. The testing may be terminated any time after the first 6 tests.
 - b. Further evaluation may be deemed necessary in accordance with D2-7.9 Employee Assistance Program.
6. Failure to successfully pass a followup test or to complete prescribed treatment programs will result in disciplinary action being initiated by the chief administrative officer.

N. Transportation From Worksite After Positive Confirmation:

1. When all circumstances indicate that the employee is under the influence of drugs or illegal substances, every effort shall be made to have the employee voluntarily transported home in some fashion (i.e., family, taxi, etc.)
2. If volunteer transportation is not possible, local law enforcement officials may be contacted if deemed necessary.
3. Employees placed on administrative leave will be responsible for obtaining appropriate transportation from the worksite.
4. Under no circumstances will the employee's vehicle keys be forcibly removed from her/his possession nor shall any attempt be made to forcibly detain the employee.

O. Controlled Substance Testing:

1. All collections will be unobserved unless the department employee test coordinator determines a previous drug test was reported as:
 - a. positive,
 - b. adulterated,
 - c. substituted, or
 - d. specimen was unsuitable for testing.
2. Observed collections are observed by a person of the same gender.
3. A collection site must:
 - a. have a restroom/stall with a toilet which provides privacy while providing the urine specimen,
 - b. be secure,
 - c. be in a location that is as discreet as possible,
 - d. not be used or available for use by the general public while the collection is in process, and
 - e. have a source of water or sanitary wipes for washing hands.
4. To prohibit dilution of the specimen by the employee at the time of submission, a bluing agent will be added to the toilet bowl and to the water tank if available.
5. Water faucets will be secured if the employee has direct access to it when providing a urine specimen.
6. The collector must ensure that the employee does not have access to items that could be used to adulterate the specimen (e.g., soap, disinfectants, cleaning agents).
7. The collector shall inform the employee what type of testing is to occur and explain how the testing will proceed.

- a. The employee may not leave the collection area until the process is complete.
- b. The collector shall inform the employee that refusal to submit to the testing process will result in disciplinary action as outlined in D2-9.1 Employee Discipline, which may include termination.
- c. When requesting that an employee submit to such a test, a Substance Abuse Test form shall be prepared by the collector.
- d. The Substance Abuse Test form shall be signed by the employee and the chief administrative officer/designee.
 - (1) The chief administrative officer/designee signature is not required for a random testing. This section will be signed by the collector.
- e. If the employee refuses to sign the Substance Abuse Test form, Chain of Evidence form, or initial the label, it will be considered a refusal.
 - (1) Such refusal shall be witnessed by 2 staff persons.
 - (2) A sample will not be collected.
- f. The employee has 3 hours to produce 30 millilitres of urine.
 - (1) The employee may be provided up to 40 ounces of water in 8 to 10 ounce increments every 30 minutes for a 3 hour time period. If an employee fails to provide a minimum of 20 millilitre urine specimen within 3 hours, it will be considered a refusal.
 - (2) If an employee relates a medical condition that prevented providing a specimen, it shall be the employee's responsibility to seek medical explanation by a licensed physician within 5 working days for her/his inability to provide a urine specimen.
 - (A) The department reserves the right to have the medical explanation reviewed and verified by an independent licensed physician.
 - (B) If there is a conflict between physician statements, the chief administrative

officer will consult with the department legal counsel.

- g. If the employee refuses to submit to the substance abuse testing, the employee will be placed on administrative leave pending disciplinary action, per D2-8.5 Administrative Leave.
 - h. If an employee provides a urine sample that the laboratory identifies as substituted or adulterated, it will be considered the same as a refusal. The employee will be placed on administrative leave pending disciplinary action, per D2-8.5 Administrative Leave.
 - i. The collector will document any issues regarding the collection process and immediately contact the chief administrative officer (i.e. refusal, failure to provide specimen, etc.).
 - (1) The department employee test coordinator and superintendent of the department toxicology laboratory should be copied on all reports concerning the collection process.
8. All urine specimens must be documented on the Request for Urinalysis/Chain of Evidence - Employee form. The Request for Urinalysis/Chain of Evidence - Employee form is completed as follows:
- a. The collector will fill in the facility/location name (official domicile), institution/probation and parole office number, or other location identification.
 - b. The appropriate division within the department will be identified. Contracted personnel will be identified under the division with which they are providing services (i.e. CMS/DORS). The contractor's name will be identified in the comments section.
 - c. The collector will indicate the type of testing to be performed by selecting random, reasonable suspicion, preemployment, critical incident, return to duty, post accident, or followup.
 - d. The collector will note whether the collection was unobserved or observed. If an observer was utilized, the collector will place the observer's name in the appropriate space on the form.
 - e. The collector will verify the employee department identification card number and enter it in the space

provided.

- f. The collector will place the employee ID number, last name and first name of the employee in the appropriate space and the date and time the specimen was collected.
- g. The employee's ID number, last and first name must be written on the Employee Urine Sample label (Attachment G).
- h. Verification of the employee number and name will be indicated on the form by the collector initialing in the "donor identification verified" space.
- i. Within 4 minutes of sample procurement, the collector must read the temperature strip on the specimen cup and indicate the result on the form.
- j. The specimen container should be kept at room temperature prior to sample procurement.
- k. Once the split specimens are prepared, evidence tape will be applied over the cap and secured to the bottles.
- l. An Employee Urine Sample label with the employee's ID number, first and last name will be secured to the specimen bottles in the presence of the employee. The employee will initial the label verifying the information on the label, urine collection, and evidence tape.
- m. The employee must read and sign the Request for Urinalysis/Chain of Evidence - Employee form indicating that all of the information on the bottles and the form is accurate and that the employee provided the specimen.
- n. Medications may be listed in the space provided.
 - (1) The medications will be verified at a later date if necessary.
 - (2) The employee/prospective employee may choose not to provide this information at the time of collection.
- o. Any unusual circumstances may be noted in the comment section.
- p. The collector will fill out the first portion of the "chain of evidence" section of the form. When

the collector provides the specimen to another person, the next person will fill in the following line on the form to maintain a chain of custody as to who has possession of the urine specimens.

(1) There is no requirement for couriers or postal service personnel to document the chain of evidence for the specimens during transit because they do not have access to the specimens or the forms. The chain of evidence annotations resume when the samples reach the laboratory and the laboratory personnel opens the courier locked box.

9. The Request for Urinalysis/Chain of Evidence - Employee form shall be distributed in accordance with the distribution indicated on the form.
10. All copies will accompany the specimen to the department of corrections toxicology laboratory.
11. The employee must provide their department employee identification card to the collector upon arrival at the collection site.
 - a. Only the current department employee identification card will be used as positive identification.
 - b. The identification number will be used on the Request for Urinalysis/Chain of Evidence - Employee form and the Employee Urine Sample Label.
12. Prospective employees reporting for preemployment drug testing must have a photo identification, such as a driver's license.
 - a. In such cases, the photo identification number will be utilized instead of the department employee identification card number.
13. Unobserved collection procedure:
 - a. The collector must verify the employee's identification when she/he arrives at the collection site.
 - b. The collector should ask the employee to remove and leave in a secured location any hand held items and outer garments (coats, jackets) or excess clothing that would not violate personal privacy. Employees will be instructed to retain their purse/wallet/billfold and other valuables in their possession.

- c. The collector directs the employee to empty her/his pockets/purse/wallet/billfold and display the contents to ensure that no items are present that could be used to adulterate the specimen.
- d. If there is nothing that can be used to adulterate a specimen, the employee may place the items back into the pockets/purse/wallet/billfold and the collection procedure can continue.
- e. If the item appears to be inadvertently brought to the collection site, the collector will secure the item and continue with the normal collection procedure. A notation shall be made in the comments section.
- f. If an item is found that appears to have been brought to the collection site with the intent to adulterate the specimen, or if the collector is unsure as to the intent, a direct same gender observed collection procedure may be used. A notation shall be made in the comments section. The collector will complete a memorandum to the chief administrative officer outlining the reason for the observed collection.
 - (1) The department employee test coordinator and superintendent of the department toxicology laboratory should be copied on all reports concerning the collection process.
- g. The collector will accompany the employee to the collection area and have the employee wash and dry her/his hands in the presence of the collector.
- h. The collector will place bluing agent in the toilet bowl, if necessary, and secure the water supply, soap dispenser, or any other materials which could be used to adulterate the specimen.
 - (1) If access to a water supply in the restroom cannot be controlled, the collector may tell the employee that she/he will be listening at the entrance to the restroom for any sounds associated with the employee attempting to use the available sources of water. A listener of the same gender may be utilized inside the restroom if necessary.
- i. The collector will provide the employee with the urine collection cup.

- j. The collector will inform the employee of all applicable requirements:
 - (1) The collector will instruct the employee to provide at least half a cup (approximately 45 millilitres) of urine. The employee should not fill the cup to the top.
 - (A) A minimum of 30 millilitres is required for a split sample.
 - (B) 20-29 millilitres is required for a single sample.
 - (C) 19 millilitres or less constitutes a refusal.
 - (2) The employee has 3 hours to produce a urine sample.
 - (3) The employee may be provided up to 40 ounces of water in 8 to 10 ounce increments every 30 minutes within the 3 hours.
 - (4) The employee may not wash her/his hands until after the collector has received the urine specimen.
 - (A) Employees will be permitted to wash their hands after each attempt.
- k. The collector will allow the employee privacy for collection.
 - (1) In a restroom with a stall, a same gender collector may remain in the restroom, but outside the stall until the specimen is collected.
 - (2) In those instances where the stool/urinal is in a single room with no stalls, the collector must remove and secure all items that might be used to alter the specimen prior to the drug test and wait outside the closed door.
- l. After the specimen has been collected, the collector will check the temperature of the specimen within 4 minutes of collection.
 - (1) The temperature of the urine sample should register between 90 and 100 degrees Fahrenheit when read.

- (2) If the temperature is within acceptable range, the collector will note such on the Request for Urinalysis/Chain of Evidence - Employee form.
 - (3) If the temperature is outside the acceptable range, the collector will note that the urine temperature was not within range on the form in the comment section.
 - (4) Specimen abnormalities will be noted in the comments section.
- m. The collector will verify the amount of urine specimen provided. A urine specimen of 19 millilitres or less constitutes a refusal.
 - (1) If the volume is less than 30 millilitres and the temperature is within acceptable range, the employee forfeits the right to the use of a split specimen collection procedure.
 - (A) A single bottle will be prepared and sent to the laboratory.
 - (B) On the form, the collector will note that the employee failed to provide enough urine and a single specimen was sent to the laboratory.
 - (2) If the volume of the urine is greater than 30 millilitres, the urine specimen will be split equally between the 2 bottles. One specimen will be marked A and the other specimen will be marked B.
 - (A) The bottles should not be filled to the top as the specimen may be frozen and the bottle could break due to expansion.
- n. The collector will place the lid on the bottles and secure the evidence tape to each of the specimens.
 - (1) The evidence tape should be applied over the cap and onto the bottle to ensure security of the sample.
 - (2) The employee must be present to observe the sealing of the specimen bottles.
- o. The collector will ask the employee to verify that the specimens were indeed her/his by signing the statement on the Request for Urinalysis/Chain of

Evidence - Employee form and initialing the Employee Urine Sample label on both bottles.

- p. The bottles will be placed together in a single ziploc type bag and sealed.
 - q. The employee will be allowed to wash her/his hands after the bottles have been sealed.
 - r. The collector will ask the employee if they wish to list any medications that they may have taken that might affect the results of the test.
 - s. Any unusual events shall be documented in the comment section of the Request for Urinalysis/Chain of Evidence - Employee form.
 - t. The collector will complete the chain of evidence portion of the form and place the form and the plastic bag of specimens in the secured storage or locked box for shipment to the laboratory.
 - (1) A Substance Abuse Test form is forwarded to the chief administrative officer for inclusion in the employee health file.
 - u. The specimens should be refrigerated within 24 hours of collection if they are not immediately sent to the laboratory.
 - v. Random urine specimens should be sent at least once a week to the laboratory for testing.
 - w. All specimens, except random specimens, should be shipped or transported to the laboratory by the close of the next business day.
 - x. All urine collected for drug testing which is not submitted to the laboratory will be disposed of in a toilet and the toilet will be flushed. Under no circumstances shall urine be disposed of in any other drain, sink or fixture.
 - y. Urine which is spilled shall be cleaned up promptly with a 10 percent liquid bleach solution or any environmental protection agency approved hospital disinfectant which destroys bacteria.
14. Observed collection procedure:
- a. It may be necessary for some specimen collections to be observed.

- b. In all cases, only a person of the same gender as the employee will observe the procurement.
- c. All employees involved in the collection process will display a professional demeanor at all times.
- d. A direct observed collection procedure is the same as an unobserved collection procedure with the additional requirement that an observer physically watches the employee urinate into the collection cup.
- e. The use of an observer will occur only when:
 - (1) as determined by the department employee test coordinator a previous drug test was reported as:
 - (A) positive,
 - (B) adulterated,
 - (C) substituted, or
 - (D) specimen was unsuitable for testing,
 - (2) as determined by the department employee test coordinator, a drug test is a return to duty or a followup test due to a previous positive drug test,
 - (3) as determined by the chief administrative officer the department believes that the employee may alter or substitute a specimen to be provided, or
 - (4) as determined by the department approved collector during the unobserved collection the following occurs:
 - (A) the collector observed materials brought to the collection site that could serve to adulterate or substitute a specimen,
 - (B) employee conduct indicated a possible attempt to adulterate or substitute a specimen, or
 - (C) the collector believes that the specimen has been adulterated (e.g., the specimen is blue, exhibits excessive foaming when shaken, has smell of bleach.)

- i. The specimen will be sent to the laboratory for testing.
 - (5) The department employee test coordinator and superintendent of the department toxicology laboratory should be copied on all reports concerning the collection process.
 - f. The collector may request assistance of an observer. The observer must maintain visual contact of the collection cup until the employee hands the cup to the collector. The observer is strictly there to observe and should not have any contact with the specimen; therefore, does not have to sign the Request for Urinalysis/Chain of Evidence - Employee form.
 - g. The collector will note on the form that the sample was observed, the name and title of the person who observed the procurement, and the reason for an observed collection in the "comment" section.
15. If the urinalysis sample is not collected within 32 hours, attempts to administer the test will cease and the chief administrative officer/designee will forward a written report of the situation to the department employee test coordinator.
16. Any employee who is subject to substance abuse testing will remain readily available for testing.
- a. Failure to do so may be considered as having refused the test and disciplinary action may be imposed.
17. Urinalysis Testing: Urinalysis testing shall be conducted by the department toxicology laboratory for controlled substances other than alcohol.
- a. The department toxicology laboratory will use the Substance Abuse and Mental Health Services Administration (SAMHSA) drug identification standards for the identification of drugs of abuse, diluted, adulterated, or substituted specimens.
18. Specimens that are determined positive by the toxicology laboratory, will be sent to an outside national laboratory to be confirmed and the department employee test coordinator will be notified.
- a. Disciplinary action shall not be pursued until completion of confirmation of the results by the medical review officer.

- b. Positive substance abuse test results will be forwarded to the medical review officer for evaluation.
- 19. The superintendent of the department toxicology laboratory will be informed in writing of any specimens identified as diluted by the department toxicology laboratory.
 - a. The superintendent of the department toxicology laboratory will direct the collector to recollect the specimen (unobserved).
 - b. This will occur until a specimen is collected that is not identified as diluted or the employee provides a medical reason and documentation for the occurrence (i.e. diuretic medication, etc.).
- 20. A medical review officer will review all positive urinalysis results.
 - a. An individual with a detailed knowledge of possible alternate medical explanations is essential to the review of the results.
 - b. This review shall be performed by the medical review officer prior to the transmission of results to the division director or the chief administrative officer.
 - c. The medical review officer shall review all medical records made available by the donor when a confirmed positive test could have resulted from legally prescribed medication.
 - d. If the medical review officer determines there is a legitimate medical explanation for the positive test result, no further action is taken and the test is reported as negative.
 - e. If the test is for reasonable suspicion or critical incident, the results are reported as negative with the prescription medication being identified.
 - f. Prior to returning the results to the department employee test coordinator and chief administrative officer the toxicology laboratory manager will verify the results.

P. Reports and Record Keeping:

1. Negative Results:

- a. Negative results of employees shall be reported in writing by the department toxicology laboratory to the chief administrative officer of the worksite.
- b. The chief administrative officer will inform the employee of the test results. This notification may be made verbally or in writing to the employee.
 - (1) The human resources clerk/designee at the worksite will be notified of the results electronically by the department toxicology laboratory for prospective employees.
- c. All correspondence regarding drug testing results, including the medications listed on the Request For Urinalysis/Chain of Evidence - Employee form, shall be considered confidential.
- d. Distribution of the Request For Urinalysis/Chain of Evidence - Employee form shall be as follows:
 - (1) Pink copy - will be placed in the employee's human resources working file for a minimum period of 1 year.
 - (A) The pink copy for contract employees will be sent via the worksite chief administrative officer to the contract administrator at the worksite.
 - (B) The pink copy for prospective employees that test, but fail to report for work, shall be destroyed.
 - (2) Canary copy - will be forwarded to the department employee test coordinator and retained for a period of 2 years.
 - (3) White copy - shall be retained by the department toxicology laboratory for a period of 5 years.

2. Positive Results of Illegal Drug Use:

- a. The department toxicology laboratory will notify the department employee test coordinator of all positive results.
- b. A report will be generated from the toxicology laboratory to the department employee test coordinator listing the employee name and drug

identified for illegal drug usage.

(1) This report will indicate that the employee should be placed on administrative leave in accordance with D2-8.5 Administrative Leave pending the medical review officer's evaluation for confirmation.

c. The department employee test coordinator will inform the chief administrative officer of the results and obtain contact information for the medical review officer's followup.

(1) The department employee test coordinator will advise the chief administrative officer that the employee should be placed on administrative leave in accordance with D2-8.5 Administrative Leave pending evaluation by the medical review officer.

d. The medical review officer's report will be reviewed by the department toxicology laboratory and sent to the department employee test coordinator along with the final toxicology laboratory report.

e. The department employee test coordinator will forward the medical review officer's evaluation to the chief administrative officer.

f. Distribution of the Request For Urinalysis/Chain of Evidence - Employee form shall be as follows:

(1) Pink copy- will be placed in the employee's human resources working file - permanent retention.

(A) The pink copy for contract employees will be sent via the worksite chief administrative officer to the division director providing oversight of the contracted service.

(2) Canary copy - forwarded to the department employee test coordinator and retained for a period of 5 years.

(3) White copy - shall be retained by the department toxicology laboratory for a period of 5 years.

3. Positive Results for Prescription Drugs:

a. The department toxicology laboratory will notify the

department employee test coordinator of all positive results.

- b. A report will be generated from the toxicology laboratory to the department employee test coordinator listing the employee name and prescription drug identified.
 - (1) The employee will not be placed on administrative leave.
- c. The department employee test coordinator will inform the chief administrative officer of the results and obtain contact information for the medical review officer's followup.
- d. If the medical review officer determines there is a legitimate medical explanation for the positive test result, no further action shall be taken and the test shall be reported as negative.
- e. If the medical review officer determines there is not a valid prescription, the medical review officer's report will be reviewed by the department toxicology laboratory and sent to the department employee test coordinator.
- f. The department employee test coordinator will forward the medical review officer's evaluation to the chief administrative officer along with the final toxicology laboratory report.
- g. Distribution of the Request For Urinalysis/Chain of Evidence - Employee form shall be as follows:
 - (1) Pink copy - will be placed in the employee's human resources working file - permanent retention.
 - (A) The pink copy for contract employees will be sent via the worksite chief administrative officer to the division director providing oversight of the contracted service.
 - (2) Canary copy - will be forwarded to the department employee test coordinator and retained for a period of 5 years.
 - (3) White copy - shall be retained by the department toxicology laboratory for a period of 5 years.

4. Test results will be maintained for a minimum of 1 year and may then be destroyed.
5. Monthly Reports of Positive Results:
 - a. A monthly report will be sent to each division director and the department director for those substance abuse tests conducted on employees in their jurisdiction.
 - b. The report will contain:
 - (1) the number of employees tested,
 - (2) the number of positive test results,
 - (3) names of employees receiving a positive test result, and
 - (4) work domicile of employees receiving a positive test result.
6. Monthly Log:
 - a. An Employee Drug Test Log form (Attachment H) shall be completed for all drug tests performed under the following situations:
 - (1) pre-employment,
 - (2) reasonable suspicion,
 - (3) critical incident,
 - (4) post accident,
 - (5) return to duty, and
 - (6) followup.
 - b. The completed Employee Drug Test Log shall be forwarded to the employee drug test coordinator after the end of each month.
 - c. Random drug testing is not reported on this log, they are reported on the monthly random list the collector receives.

IV. ATTACHMENTS:

- A. 931-4407 Employee Drug and Alcohol Testing Program Employee Notification
- B. 931-4479 Employee Test Designated Position Receipt

- C. 931-4477 Employee Nontest Designated Position Receipt
- D. 931-3834 Substance Abuse Test
- E. 931-4128 Request for Urinalysis/Chain of Evidence - Employee
- F. 931-4478 Random Selection Pool Volunteer form
- G. 931-4408 Employee Urine Sample Label
- H. 931-4476 Employee Drug Test Log

V. REFERENCES:

- A. D2-2.1 Selection Procedures
- B. D2-7.9 Employee Assistance Program
- C. D2-8.5 Administrative Leave
- D. D2-9.1 Employee Discipline
- E. D2-11.13 Employee Searches
- F. D2-16.1 Firearms - Probation & Parole
- G. D2-16.2 Firearms - Fugitive Apprehension Section
- H. D4-4.1 State Vehicles
- I. D4-4.5 Commercial Driver's License(CDL)Drug/Alcohol Testing
- J. IS20-1.3 Searches
- K. IS20-2.1 Firearms

VI. HISTORY: Department procedure D1-8.4 Employee Substance Abuse, D2-11.11 Drug-Free Workplace and D2-11.12 Drug-Free Workplace have been merged into one procedure and carried under the D2-11.11 number.

- A. Original Effective Date: 04-15-91
- B. Revised Effective Date: 04-01-98
- C. Revised Effective Date: 12-01-99
- D. Revised Effective Date: 03-01-04
- E. Revised Effective Date: 11-01-04
- F. Revised Effective Date: 05-20-05

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.12 Employee Alcohol Testing

<hr/>	July 17, 2006
Larry Crawford, Department Director	Effective Date

I. PURPOSE: This procedure outlines actions to be taken to identify and respond to employees who are suspected of alcohol abuse. The testing for the presence of alcohol is for impairing levels of legal substances. It is the policy of the department to discipline, up to and including termination, employees who violate the alcohol free workplace policy and procedures. Violations include, but are not limited to, positive tests, refusal to test or attempts to manipulate test results.

A. AUTHORITY: 217.040, Chapter 195 RSMo

B. APPLICABILITY: All employees of the department. Employees operating as a commercial driver's license (CDL) driver will also be subject to testing as specified in D4-4.5 Commercial Driver's License (CDL) Drug/Alcohol Testing Requirements.

II. DEFINITIONS:

A. Alcohol Detection Method: Any instrument or test approved by the National Highway Traffic Safety Administration, the National Department of Transportation, National Highway and Safety Programs and approved by the superintendent of the department toxicology laboratory as an evidential breath tester (EBT).

B. Alcohol Testing Form: A form utilized to document alcohol testing. (Attachment A)

C. Breath Alcohol Content: The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

- D. Breath Alcohol Technician (BAT): A departmentally trained and approved employee who is responsible for administering a screening breath alcohol test and/or the confirmation breath alcohol test for an employee.
- E. Breath Alcohol Testing: The process of testing by means of an approved evidential breath tester.
- F. Cancelled Test: A drug or alcohol test that has a problem identified that cannot be, or has not been, corrected. A cancelled test is neither a positive nor a negative test.
- G. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.
 - 1. Director's Office:
 - a. Deputy Director
 - 2. Department Sections in the Director's Office:
 - a. Deputy Director
 - b. Central Office Section Heads
 - 3. Division of Probation and Parole:
 - a. Division Director
 - b. Chief State Supervisor
 - c. Assistant Division Directors
 - d. Superintendents
 - e. Regional Administrators
 - f. District Administrators
 - 4. Division of Adult Institutions:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Assistant to Division Director
 - d. Superintendents
 - 5. Division of Offender Rehabilitative Services:

- a. Division Director
- b. Assistant Division Directors
- c. Superintendents
- d. Central Office Section Heads

6. Division of Human Services:

- a. Division Director
- b. Central Office Section Heads

H. Collection Site: A facility (permanent or temporary) where an employee provides a specimen.

I. Confirmation Test: A subsequent test, administered no sooner than 15 minutes and no longer than 30 minutes after a positive screening test, using an evidential breath tester, following a screening test with a result of 0.020 or greater.

J. Contracted Vendor: A company, or companies, contracted to provide substance abuse testing as determined by the department employee test coordinator/designee.

K. Critical Incident: A situation occurring in the course of performance of duty which results in damage to property or which causes, or has the immediate potential of causing, physical injury or death to any person. Critical incidents that may require an employee to undergo testing are:

- 1. an accident involving agency property,
- 2. an accident involving agency property where injury resulted,
- 3. physical altercation (disruptive behavior) involving injury to an employee or offender,
- 4. discharge of a weapon during a training session or on duty, other than as directed or required,
- 5. discharge of a weapon which results in injury to an employee, an offender, or civilian, or
- 6. discharge of a weapon which results in death of an employee, an offender or civilian.

- L. Department Employee Test Coordinator/Designee: An employee designated by the department director/designee to coordinate alcohol and substance abuse testing with the worksite employee test coordinators, contracted alcohol/drug test vendors, and department toxicology laboratory. Normally, this individual will be the employee health coordinator and/or safety coordinator.
- M. Employee: Any person who is employed by the department including:
1. persons who are contracted to perform services within a department facility (i.e., medical services, mental health services, education services, substance abuse services, information systems, etc.) and have been issued a permanent department identification card,
 2. full-time, part-time, temporary and per diem employees,
 3. volunteers in corrections,
 4. student interns,
 5. other persons who are issued a permanent department identification card or volunteer/student intern classification card.
- N. Employee Health and Safety Coordinator: A person who coordinates activities in the employee health and safety unit.
- O. Error Correction Training: Training provided to breath alcohol technicians and urine specimen collectors following an error(s).
- P. Evidential Breath Tester: An instrument that has been approved by the National Highway Traffic Safety Administration, and the department employee test coordinator/designee, for testing breath alcohol.
- Q. Followup Testing - Alcohol: A minimum of 6 additional random breath alcohol tests following a confirmed breath alcohol sample conducted, within the following 12 months, if employment with the department is continued.
- R. Medical Review Officer (MRO): A person who is a licensed physician and is responsible for reviewing laboratory results

generated by a drug and alcohol testing program and additional information and evaluating medical explanations for certain drug and alcohol test results.

S. Negative Results - Alcohol: An alcohol test result of 0.000.

T. Positive Results - Alcohol: An alcohol test result greater than 0.000.

U. Post Accident Testing: Testing conducted after an accident when an employee is operating a state vehicle and is directly involved in an accident. The accident must include at least one of the following components:

1. a fatality,
2. an injury requiring immediate medical treatment away from the accident scene,
3. a citation from a law enforcement agency to the employee for a moving traffic violation arising from the accident, or
4. disabling damage to one or more motor vehicles as a result of the accident which requires the vehicle to be towed away from the scene of the accident.
 - a. This does not include an accident in which the vehicle is pulled back on to the road and the driver can safely continue driving the vehicle.

V. Prospective Employee: Individuals that are being offered a position within the department.

W. Random Testing: Selection from a group of employees conducted in a manner that ensures that each employee has an equal chance to be selected. This selection may be made by a computer program or by a documented, systematic random selection process approved by the chief administrative officer.

X. Reasonable Suspicion: Specific facts which are sufficient to lead a reasonable person to suspect that an employee may be under the influence of a substance or using or misusing a drug. Reasonable suspicion may exist when any of the following, alone or in combination, are observed:

1. slurred speech,
2. alcohol odor on breath,
3. unsteady walking and movement,
4. unusual behavior,
5. verbal altercation (disruptive behavior),
6. a positive reaction from drug interdiction equipment,
7. a positive reaction from a narcotic detection dog,
8. possession of alcohol or illicit drugs,
9. a positive test result from an evidential breath tester,
10. information obtained from a reliable person or reliable information/documentated information, or
11. other substantiated circumstances.

Y. Relative: For the purpose of this procedure, relative shall be defined as:

1. spouse,
2. parents,
3. children,
4. grandparents,
5. grandchildren,
6. siblings,
7. first cousins,
8. aunts,
9. uncles,
10. nephews,

11. nieces, and
12. shall include in-law, blood, step and all foster relationships.

Z. Reliable Person: A person who has:

1. provided accurate information in the past, or
2. has personal knowledge of the facts being relayed, or
3. is generally known as reliable, honest and trustworthy.

AA. Return to Duty - Alcohol: A breath alcohol test result that is 0.000 after a previous confirmed positive test result and prior to returning to duty if employment continues with the department.

BB. Safety Coordinator: An employee assigned to the employee health and safety unit that is responsible for coordinating and assisting with activities relating to health and safety in all departmental facilities.

CC. Safety Manager: An employee who is responsible for health and safety plans and conducting health and safety inspections at a facility.

DD. Screening Test: The initial test, using an evidential breath tester, to determine the possible presence of alcohol in the tested individual.

EE. Substance Abuse: An incident or pattern of alcohol or drug misuse.

FF. Substance Abuse Professional: A licensed physician (medical doctor or doctor of osteopathy) or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of, and clinical experience in, the diagnosis and treatment of alcohol and controlled substances and related disorders.

GG. Test Designated Positions: For the purposes of random substance abuse testing of department employees, test

designated positions encompass safety-sensitive and security-sensitive positions that meet one or more of the following criteria:

1. Secured perimeter - regularly performs duties inside the secured perimeter of a correctional center.
2. Contact with offenders in custody - has regular, unsupervised access to or interaction with offenders who are confined in a correctional center.
3. Firearms - uses or carries a firearm or is authorized to carry a firearm in connection with official duties (whether on duty or off duty).
4. Drug treatment and supervision - provides substance abuse counseling or substance abuse monitoring of offenders (whether in custody or on probation and parole).
5. Health care - provides direct health care to offenders or employees.
6. Motor vehicle - drives a motor vehicle as one of the principal activities of the position or possesses a commercial driver's license as a condition of employment.
7. Dangerous equipment - regularly uses or operates equipment or machinery which could cause death or serious physical injury.
8. Information systems - has the authority to access computer systems operations and is, thereby, able to disrupt central or remote computer systems, to destroy all computer data on those systems, and to interrupt or corrupt the recovery process.
9. General - any position in which a single substance abuse related lapse could have irreversible and disastrous consequences for any aspect of the department's operations.

HH. Worksite Employee Test Coordinator: An employee designated by the chief administrative officer who arranges for substance abuse testing and coordinates with the department employee test coordinator/designee. Normally, this individual will be the

worksite safety manager/designee.

III. PROCEDURES:

A. General Information:

1. Alcohol use may:
 - a. impair an employee's ability to perform the essential functions of her/his job,
 - b. reduce the employee's ability to perform her/his job safely, or
 - c. jeopardize the safety of the work place and/or coworkers.
2. Impairment from alcohol within the workplace can cause:
 - a. drowsiness,
 - b. loss of concentration, memory, or judgment,
 - c. distortion of reality,
 - d. poor coordination, and
 - e. slow reaction time.
3. Those employees who are impaired because of alcohol put themselves and everyone around them in danger.
4. Alcohol use on duty or impairment from alcohol while on duty is prohibited and will not be tolerated.
5. Employees shall not consume alcoholic beverages at least 4 hours prior to shift or during a meal break.

B. Rights and Privacy:

1. The rights and privacy of employees will be safeguarded to the maximum extent possible while being balanced with the compelling government interest in maintaining an alcohol free law enforcement agency.
2. All records, forms, reports and/or results generated

in compliance with this procedure will be confidential.

- a. Positive test results will be returned to the chief administrative officer of the worksite for review and disciplinary action will be processed in accordance with D2-9.1 Employee Discipline.
3. Any unauthorized disclosure of confidential information regarding suspected employee substance abuse is subject to disciplinary action, which may include termination.
4. Each person involved in the reporting of an administrative inquiry or investigation on allegations of alcohol abuse shall provide a written report in accordance with D1-8.1 Criminal Investigation Unit Responsibilities and Actions or D1-8.4 Administrative Inquiries.

C. Breath Alcohol Technician:

1. Each worksite shall ensure trained employees are available to conduct breath alcohol screening and/or confirmation testing. Usually, the breath alcohol technician will be the:
 - a. safety manager,
 - b. employee health nurse,
 - c. shift supervisor,
 - d. assistant shift supervisor, or
 - e. any employee designated by the chief administrative officer.
2. Breath alcohol technicians assigned to perform breath alcohol testing must complete the department approved training, for each evidential breath tester she/he will/may use, prior to conducting testing.
 - a. Recertification shall be maintained in accordance with the departmentally approved training schedule.
 - b. The training officer will be responsible for maintaining a copy of the training documentation in the training file of each employee that is

trained.

- c. A copy of the training documentation will also be forwarded to the training academy.
- d. A copy of the training certificate will be forwarded to the department employee test coordinator/designee.

D. General Testing Guidelines:

1. The following situations/conditions may require breath alcohol testing to be conducted on employees or prospective employees:
 - a. pre-employment,
 - b. reasonable suspicion,
 - c. random,
 - d. critical incident,
 - e. post accident,
 - f. return to duty, and
 - g. follow up.
2. All costs/expenses associated with breath alcohol testing conducted by the department will be paid by the department.
3. Time spent taking breath alcohol tests will be considered work time.
4. Employees who are suspected of alcohol use will be tested as ordered by the chief administrative officer.
5. When conducting both breath alcohol and drug testing, the breath alcohol testing process will be completed prior to the urine collection.
6. Any employee who is subject to breath alcohol testing will remain readily available for testing.

- a. Failure to do so may be considered as having refused the test and disciplinary action may be imposed.

E. Positive Test Result Actions:

1. When a screening test indicates a reading above 0.000 but less than 0.020, the chief administrative officer will be contacted immediately.
 - a. If the chief administrative officer chooses to place the employee on administrative leave and intends to pursue disciplinary action, a confirmation test should be completed.
2. If the screening test indicates a reading of 0.020 or greater, a confirmation test shall be conducted by a breath alcohol technician.
 - a. If the confirmation test produces a test result between 0.020 and 0.039, the chief administrative officer of the worksite will place the employee on administrative leave for the rest of the work day pending possible disciplinary action in accordance with D2-9.1 Employee Discipline.
 - b. If the confirmation test produces a test result of 0.040 or greater, the chief administrative officer of the worksite will immediately place the employee on administrative leave. Disciplinary proceedings will begin in accordance with D2-9.1 Employee Discipline.
3. If employment is continued, based on a confirmation test result of 0.020 or greater, the employee will be subject to the steps outlined in III.L. and III.M. of this procedure.

F. Disciplinary Action:

1. False accusations of alcohol abuse can have serious effects on employees. Intentional false accusations, known by the accuser to be false at the time made, will result in disciplinary action.
2. When requesting that an employee submit to breath alcohol testing, the chief administrative officer/

designee shall inform the employee that refusal to submit to the breath alcohol test will result in disciplinary action which may include termination.

- a. Disciplinary proceedings will be in accordance with D2-9.1 Employee Discipline.
3. An employee will be placed on administrative leave pending an inquiry and possible disciplinary action if the employee:
 - a. refuses to complete required breath alcohol testing,
 - b. refuses to sign step 2 of the Alcohol Testing form,
 - c. manipulates, or attempts to manipulate, the results of the breath alcohol test.
 - d. has a confirmation breath alcohol test result of 0.020, or greater, or
 - e. fails to complete a prescribed employee assistance program/substance abuse program treatment program.

G. Test and Non-Test Designated Positions:

1. Positions in the department shall be categorized as test designated positions or nontest designated positions for the purpose of random breath alcohol testing.
2. Test designated positions shall also be subject to screening/confirmation testing under the following situations:
 - a. reasonable suspicion,
 - b. random,
 - c. post accident,
 - d. critical incident,
 - e. return to duty, and

- f. follow up.
- 3. Excluding random testing, nontest designated positions will be subject to screening/confirmation testing for those situations listed in III.D.1.
 - a. Nontest designated positions are not subject to random testing unless the employee volunteers to have her/his name placed in the random selection pool.

H. Reasonable Suspicion Alcohol and Drug Testing:

- 1. Any person having reasonable suspicion that an employee is under the influence of alcohol should immediately inform the employee's supervisor.
- 2. When the supervisor believes that reasonable suspicion exists, the supervisor will immediately relieve the employee from duty and conduct an initial interview.
 - a. If, after the interview, the supervisor believes reasonable suspicion exists, she/he will notify the chief administrative officer/designee.
 - b. The supervisor shall forward the information to the chief administrative officer/designee or the highest ranking employee on duty through the appropriate chain of command, as developed at each worksite.
- 3. The chief administrative officer/designee will review the information and determine whether reasonable suspicion exists.
 - a. If reasonable suspicion exists, the chief administrative officer/designee shall meet with the employee to:
 - (1) discuss the matter,
 - (2) assess the situation, or
 - (3) determine the appropriate course of action, which may vary dependent upon the situation.

- b. The chief administrative officer/designee will decide whether or not to pursue breath alcohol testing on a case-by-case basis.
 - (1) If the chief administrative officer/designee determines that breath alcohol testing is necessary, arrangements shall be made to have the test conducted.
 - (2) The chief administrative officer/designee shall inform the employee of the decision and explain how testing will proceed.
- 4. The screening test should be administered within 2 hours of the incident occurring.
 - a. If the screening test is not administered within the 2 hour period, the chief administrative officer/designee must forward a report to the department employee test coordinator explaining why the screening test was not conducted within the 2 hour time frame.
 - b. If the screening test is not completed within 8 hours, attempts to conduct the test will cease and the chief administrative officer/designee shall forward a written report of the situation to the department employee test coordinator/designee.
- 5. If the employee's breath alcohol screening test is less than 0.020 and the employee is also subject to a drug test, the employee will be placed on administrative leave pending results of the drug test in accordance with D2-11.11 Employee Drug Testing.
 - a. If the results of the drug test indicate a negative result, administrative leave status may be terminated.
 - b. If the results of the drug test indicates a positive result, administrative leave status will be continued pending disciplinary action in accordance with D2-9.1 Employee Discipline.
- 6. Prospective employees may be required to submit to pre-employment testing prior to their appointment if

there is reasonable suspicion of alcohol usage.

- a. Failure to submit to breath alcohol testing, or failure to report for testing, will be considered a refusal to comply with the department's substance abuse testing requirements and the offer of employment will be withdrawn for a period of 1 year.
- b. Testing will be handled in accordance with section III.P. of this procedure.
- c. Once breath alcohol testing is completed, the results must be received by the worksite human resources unit prior to allowing the prospective employee to report to work.
- d. The job offer will be withdrawn for prospective employees for a period of 1 year with a confirmation breath alcohol test result greater than 0.000.

I. Random Testing:

1. All test designated positions within the department are subject to random breath alcohol testing.
2. Random breath alcohol screening tests will be conducted by one of the following methods:
 - a. uniformly and by a documented, systematic random selection process, as approved by the chief administrative officer of the worksite,
 - (1) This documentation shall be copied to the department employee test coordinator/designee.
 - b. the research and evaluation unit director may develop a scientifically valid random selection tool.
3. If testing is conducted by utilizing the random selection tool developed by the research and evaluation unit, the department employee test coordinator/designee will notify the worksite employee test coordinator/designee when employees are selected for testing and the date by which the testing must occur.

- a. The worksite employee test coordinator/designee will work with the chief administrative officer to ensure employees are available for the breath alcohol screening test.
 - b. The breath alcohol technician may contact the chief administrative officer/designee to confirm the availability of the employee at the worksite.
 - (1) Contact with the chief administrative officer/designee should not be made more than 24 hours prior to the scheduled testing.
 - (2) Advance notification shall not be provided to the employee.
 - c. The chief administrative officer/designee will notify the breath alcohol technician if the employee is unavailable for testing due to absence from work.
 - (1) In that event, a new date and time will be selected.
4. Employees performing duties in a job classification not identified as a test designated position may volunteer to have their names placed in the random selection pool.
- a. The employee will complete the Random Selection Pool Volunteer form (Attachment B) and forward the form to the department employee test coordinator/designee.
 - (1) A copy will be placed in the employee's human resources working file.
 - b. The employee may withdraw her/his participation at any time from the random selection pool prior to being informed she/he has been selected for testing.
 - c. The employee's name will remain in the random selection pool until separation from employment or completion of the Random Selection Pool Volunteer form to withdraw from the random selection pool.

J. Post Accident Testing:

1. An employee involved in an accident must inform the chief administrative officer/designee of the accident immediately, or as soon as possible.
2. The chief administrative officer/designee will contact the department employee test coordinator/designee.
3. Breath alcohol testing will be conducted in accordance with III.P. of this procedure and will be administered within 2 hours of the accident, or as soon as practical.
 - a. If the screening test is not administered within the 2 hour period, the chief administrative officer/designee must forward a report to the department employee test coordinator/designee explaining why the test was not conducted within the 2 hour time frame.
 - b. If the screening test is not completed within 8 hours, attempts to conduct the test will cease and the chief administrative officer/designee shall forward a written report of the situation to the department employee test coordinator/designee.
 - c. An employee who is subject to post accident alcohol testing will remain readily available for testing.
 - (1) Failure to do so may be considered as having refused the test and disciplinary action may be imposed.
4. Nothing in this procedure should be construed to cause the delay of necessary medical attention for injured persons following an accident, or to prohibit an employee from obtaining assistance as needed to respond to the accident or obtain necessary emergency medical care.

K. Critical Incident Testing:

1. Breath alcohol testing, as outlined in III.P., based upon employee involvement in a critical incident, will be conducted as determined by the chief administrative officer/designee.
2. Breath alcohol testing shall be administered within 2

hours, or as soon as practical following the incident.

- a. If the screening test is not administered within the 2 hour period, the chief administrative officer/designee must forward a report to the department employee test coordinator/designee explaining why the test was not conducted within the 2 hour time frame.
 - b. If the screening test is not completed within 8 hours, attempts to conduct the test will cease and the chief administrative officer/designee shall forward a written report of the situation to the department employee test coordinator/designee.
 - c. An employee who is subject to critical incident testing will remain readily available for testing. Failure to do so may be considered as having refused the test and disciplinary action may be imposed.
3. A supervisor/designee should accompany the employee to the test site until the breath alcohol screening/confirmation tests have been administered by the breath alcohol technician.
 4. Nothing in this procedure should be construed to cause the delay of necessary medical attention for injured persons following an accident, or to prohibit an employee from obtaining assistance as needed to respond to the accident or obtain necessary emergency medical care.

L. Return to Duty Alcohol Testing:

1. If employment is continued after a prior positive confirmation test result of 0.020 or greater, return to duty testing will be required.
 - a. A return to duty test must be administered prior to the employee reporting for work.
 - b. When the employee has had a mandatory referral to employee assistance program counseling, a return to duty test is required to be conducted after the substance abuse professional has determined that the employee has successfully complied with the recommended education and/or treatment.

2. Refusal to submit to return to duty testing will result in disciplinary action in accordance with D2-9.1 Employee Discipline.
3. Failure to provide a return to duty breath alcohol confirmation test result of less than 0.020 shall result in disciplinary action in accordance with D2-9.1 Employee Discipline.

M. Followup Alcohol Testing:

1. When an employee has submitted a prior confirmed breath alcohol test result, within the range of 0.020 to 0.039:
 - a. Followup testing shall occur only if a mandatory referral was made in accordance with D2-7.9 Employee Assistance Program.
 - b. The employee may also be subject to disciplinary action in accordance with D2-9.1 Employee Discipline.
2. When an employee has submitted a confirmed breath alcohol test result of 0.040 or greater:
 - a. Followup testing shall occur,
 - b. A mandatory referral shall be made in accordance with D2-7.9 Employee Assistance Program.
 - c. The employee will be subject to disciplinary action in accordance with D2-9.1 Employee Discipline.
3. Time spent in actual referral, evaluation, and/or treatment activities may be either paid time off (sick, annual, compensatory leave) or leave without pay.
 - a. The department will not assume financial obligation for the cost of treatment.
4. When an employee returns to work, the employee will be subject to unannounced followup testing.
 - a. Breath alcohol testing will be conducted at least 6 times in the first 12 months.

- b. The substance abuse professional may request additional testing.
 - c. If an employee provides a subsequent positive breath alcohol test and employment is continued, followup testing may be extended a minimum of 6 times per year, up to 5 years.
 - d. If an employee has not received any positive alcohol tests for a 12 month period, she/he may be removed from the followup pool by the department employee test coordinator/designee.
5. The department employee test coordinator/designee will provide the worksite employee test coordinator/designee with dates for followup testing.

N. Transportation From Worksite After Positive Confirmation:

- 1. When an employee is placed on administrative leave, the employee will be responsible for obtaining appropriate transportation from the worksite.
- 2. Every effort will be made to have the employee voluntarily transported home in some fashion (i.e., family, taxi, etc.)
- 3. If volunteer transportation is not possible, local law enforcement officials may be contacted if deemed necessary.
- 4. Under no circumstances will the employee's vehicle keys be forcibly removed from her/his possession nor shall any attempt be made to forcibly detain the employee.

O. Insufficient Sample:

- 1. When an employee fails to provide a sufficient sample for testing, the breath alcohol technician must instruct the employee how to provide a sample.
- 2. The employee will be instructed to attempt, up to 2 additional times, to provide a sufficient sample.
 - a. If the employee refuses to make any further

attempts, the test will be discontinued and considered a refusal.

- b. The chief administrative officer shall be contacted and advised.
3. After the 3rd failed attempt, the testing process will be discontinued.
 - a. Documentation of the employee failing to provide a sufficient sample should follow the instructions in III.P.8.f.(3) of this procedure.
4. The chief administrative officer shall be contacted after the 3rd failed attempt and advised of the situation. The chief administrative officer shall:
 - a. place the employee on administrative leave,
 - b. direct the employee that she/he has 5 days to obtain an evaluation from a licensed physician that explains her/his inability to provide a specimen for breath alcohol testing, and
 - c. notify the department employee test coordinator/designee at this time.
5. Upon receipt of the explanation, the chief administrative officer shall forward this information to the department employee test coordinator/designee.
 - a. This information will be forwarded by the department employee test coordinator/designee for review by a medical review officer.
 - b. If the medical review officer confirms a valid medical explanation, the employee may be removed from administrative leave.
 - (1) The department employee test coordinator/designee will notify the worksite chief administrative officer to return the employee to work and to discontinue administrative leave status.
 - (2) Depending upon the employees' essential

functions requirements, she/he may be required to submit to essential functions testing.

- c. If the medical review officer does not confirm a valid medical explanation, the chief administrative officer shall consider this as a refusal to test and proceed with the disciplinary process in accordance with D2-9.1 Employee Discipline.

P. Breath Alcohol Testing Process:

1. The breath alcohol technician conducting the screening/confirmation tests should not be the employee's immediate supervisor or the employee's relative.
2. The test site should provide visual and aural privacy sufficient to prevent unauthorized persons from seeing or hearing the test results.
3. The test site must not be used, or be available for use, by the general public while the screening/confirmation testing is in progress.
4. The employee must submit her/his current department employee identification card to the breath alcohol technician upon arrival at the collection site.
5. The employee should not smoke or take anything by mouth at least 15 minutes prior to the screening/confirmation testing.
6. The breath alcohol technician shall inform the employee what type of testing is to occur and explain how the testing will proceed.
 - a. The employee may not leave the testing area until the process is complete.
 - b. When requesting that an employee submit to a breath alcohol test, the Alcohol Testing form shall be prepared by the breath alcohol technician.
 - (1) If a breath alcohol technician that did not perform the screening test is conducting a confirmation test, the breath alcohol technician will complete a separate Alcohol

Testing form for the confirmation test.

- c. The employee shall be informed that refusal to submit to the screening test process will result in disciplinary action in accordance with D2-9.1 Employee Discipline, which may include termination.
 - d. The breath alcohol technician will document any issues regarding the collection process in the remarks section of the Alcohol Testing form and immediately notify the chief administrative officer of the employee's refusal, attempt to manipulate, failure to provide, etc.
 - (1) Documented issues regarding the collection process shall be immediately reported to the department employee test coordinator/designee after the chief administrative officer has been notified.
7. A positive result of the screening test will require a confirmation test.
- a. A confirmation test shall be conducted by a breath alcohol technician no sooner than 15 minutes after the original screening test but no later than 30 minutes after the original screening test.
 - b. The chief administrative officer will be contacted with the results of the confirmation test.
8. All breath alcohol testing must be documented on the Alcohol Testing form.
- a. The breath alcohol technician will complete step 1 of the Alcohol Testing form to indicate the employee's:
 - (1) last and first name,
 - (2) job title,
 - (3) Identification card number from:
 - (A) a current department identification

card for employees, volunteers or student interns,

(B) a photo identification card (such as a current driver's license) for prospective employees.

(4) facility/location,

(5) division,

(6) chief administrative officer's name and telephone number, and

(7) reason for testing.

b. The employee shall sign the Alcohol Testing form in step 2.

(1) If the employee refuses to sign the Alcohol Testing form in step 2, it will be considered a refusal and will result in disciplinary action in accordance with D2-9.1 Employee Discipline which may include termination.

(2) If a prospective applicant refuses to sign the Alcohol Testing form in step 2, it will be considered a refusal to comply with the department's substance abuse testing requirement and the offer of employment will be withdrawn for a period of 1 year.

c. The breath alcohol technician shall complete step 3 of the Alcohol Testing form to indicate:

(1) the technician's title,

(2) breath device utilized,

(3) the 15 minute wait,

(4) results of screening test if a printout is not required, (if a printout is used it must be affixed to the back of each page with yellow evidence tape),

- (5) remarks,
 - (6) the breath alcohol technician's:
 - (A) printed last and first name,
 - (B) identification card number,
 - (C) worksite, and
 - (D) phone number.
 - (7) The breath alcohol technician will sign and date the form.
- d. In step 4 the employee should sign and date the Alcohol Testing form if the test result is a positive confirmation.
- (1) If the employee refuses to sign, the refusal shall be noted in the comments section on the Alcohol Testing form and processed in accordance with the distribution indicated on the form.
 - (A) Refusal at step 4 does not constitute a refusal to test.
- e. The test results should be witnessed and documented by the collector and the employee tested.
- f. Test Results - Documentation:
- (1) If a printout is not used, the following information must be manually documented by the collector in step 3 of the Alcohol Testing form for a screening test result of 0.00:
 - (A) test number,
 - (B) test device name,
 - (C) test device serial number,
 - (D) reading time, and

(E) result.

(2) Printing of test results:

(A) A test result of 0.000 does not require a printout.

- i. If a printout is used, it must follow the steps listed in P.8.f.(2)(C) through (E) below.

(B) Any test result of 0.001, or greater, must be printed.

(C) All printed test results must be signed by the breath alcohol technician and the test subject.

(D) A refusal to sign the test result by the test subject is not a refusal to test.

(E) All printed results must be affixed to the back of each page of the Alcohol Testing form using yellow evidence tape.

(F) A copy of the accuracy check, for positive test results, shall also be affixed to the Alcohol Testing forms.

(3) Insufficient Sample Documentation:

(A) An Alcohol Testing form is used for each test.

(B) The breath alcohol technician shall record her/his observations of the test subjects efforts to comply with the testing in the remarks section of the Alcohol Testing form.

(C) Phoenix Evidential Breath Tester:

- i. This evidential breath tester will not provide a printout of an insufficient sample.

- ii. The breath alcohol technician must manually document in the remarks section of the Alcohol Testing form that the subject failed to provide a sufficient breath sample.

(D) Alco-Sensor IV Evidential Breath Tester:

- i. This evidential breath tester will provide a printout after the 3rd failed attempt to provide a specimen.
- ii. This printout shall be affixed to the back of each page of the Alcohol Testing form with yellow evidence tape.

(4) Any unusual circumstances shall be noted in the remarks section.

- g. All positive breath alcohol tests shall be reported to the department employee test coordinator/designee, by the chief administrative officer/designee, immediately.

9. All equipment operated and maintained for employee alcohol testing shall be calibrated according to the manufacturer's specifications for the life of each instrument.

- a. Inspection and maintenance records for each evidential breath tester shall be maintained, for the life of the instrument, by the worksite employee test coordinator/designee.
- b. Calibration and accuracy check records shall be maintained, for each evidential breath tester, in accordance with the requirements listed on the Quality Assurance Program for the Phoenix (Attachment C) or the Quality Assurance Program for the Alco-Sensor IV (Attachment D) for the life of the instrument.

Q. Cancelled Tests (Fatal Flaws and Correctable Errors):

- 1. Fatal Flaws:

- a. The breath alcohol technician will complete the alcohol test for the employee.
- b. During the testing process, if any of the following problems occur, they are fatal flaws and the test will be cancelled:
 - (1) failure to have the employee sign and date step 2 of the Alcohol Testing form,
 - (2) if, during a screening or confirmation test:
 - (A) the sequential test number on the evidential breath tester is not the same as on the printed test result, or
 - (B) the alcohol concentration displayed on the evidential breath tester is not the same as on the printed result,
 - (3) if, during a confirmation test:
 - (A) the breath alcohol technician conducts the test before the end of the minimum 15 minute waiting period,
 - (B) the breath alcohol technician does not conduct an air blank before the test,
 - (C) the evidential breath tester does not produce a result of 0.000 on the air blank,
 - (D) the evidential breath tester does not print the test result, or
 - (E) the accuracy check produces a result that differs by more than the stated tolerance in the device's Quality Assurance Program.
- c. A cancelled test is neither negative nor positive.
 - (1) The chief administrative officer and department employee test coordinator/designee must be immediately notified and the test treated as if

it never occurred, and

(2) The Alcohol Testing form will not be destroyed.

2. Correctable Errors:

a. The breath alcohol technician may correct the following items by submitting a memo to the chief administrative officer and employee test coordinator outlining the mistake identified and the correct information:

(1) the breath alcohol technician does not sign the Alcohol Testing form,

(2) the breath alcohol technician fails to include required information on the Alcohol Testing form,

(3) the breath alcohol technician fails to note on the "remarks" line of the Alcohol Testing form that the employee did not sign step 4 of the Alcohol Testing form after a positive confirmation test.

3. Correcting a Testing Problem:

a. If, during or shortly after the testing process, the breath alcohol technician becomes aware of any event that will cause the test to be cancelled, the breath alcohol technician must try to correct the problem promptly, if practicable.

b. The testing process may be repeated as part of this process.

c. If repeating the testing process is necessary, a new test must begin as soon as possible using:

(1) a new Alcohol Testing form. The original Alcohol Testing form must be retained and sent to the employee test coordinator.

(2) a new sequential test number, and

(3) if needed, a new evidential breath tester.

- d. If repeating the testing process is necessary, there is no limit, other than specified time frames, to the number of attempts to complete the test provided the employee is making a good faith effort to comply with the testing process.
- e. If another evidential breath test instrument is not available for the new test, the chief administrative officer/designee must immediately be advised that the test could not be completed.
 - (1) Reasonable efforts should be made to ensure that the test is conducted at another testing site as soon as possible (i.e. a contracted site or local law enforcement).
 - (2) The department employee test coordinator/designee shall be immediately notified by the breath alcohol technician.

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D2-11.13 Employee Searches

June 9, 2003

Gary B. Kempker, Department Director

Effective Date

I. PURPOSE: This procedure provides guidelines to be followed to ensure searches are appropriately conducted.

A. AUTHORITY: 217.040, 217.175 RSMo

B. APPLICABILITY: All employees of the department, including contract employees, volunteers and student interns.

II. DEFINITIONS:

A. Chief Administrative Officer: The chief administrative officer is the highest ranking individual at the worksite, as designated below. Exception: Employees at a worksite who do not report to the worksite chief administrative officer will be accountable to the assistant division directors/central office section heads who are in their chain of command.

1. Director's Office:

a. Deputy Director

2. Department Sections in the Director's Office:

a. Deputy Director

b. Central Office Section Heads

3. Division of Probation and Parole:

a. Division Director

b. Assistant Division Directors

c. Superintendents

d. Regional Administrators

e. District Administrators

4. Division of Adult Institutions:

a. Division Director

b. Assistant Division Directors

- c. Assistant to Division Director
 - d. Superintendents
- 5. Division of Offender Rehabilitative Services:
 - a. Division Director
 - b. Assistant Division Directors
 - c. Superintendents
 - d. Central Office Section Heads
- 6. Division of Human Services:
 - a. Division Director
 - b. Central Office Section Heads
- B. EntryScan 3: A walk through trace technology machine used in the detection of narcotics and/or explosives.
- C. Frisk Search: The search of a person, including skimming the body with the hands and/or a metal detector, examination of pockets, shoes, mouth, hair and any and all articles found in that person's possession at the time of the search.
- D. Itemiser: A machine used in the detection of narcotics and explosives.
- E. Itemiser Search: A search of a person, an object or an area in which the itemiser is used to determine whether traces of narcotics or explosives are present.
- F. Probable Cause: Occurs when there is physical evidence or trustworthy information that would support a determination by a reasonable corrections staff member that another person is concealing contraband on or about her/his person.
- G. Reasonable Suspicion: Occurs when the observations, experience, training and education of a reasonable corrections staff member causes that person to reasonably suspect that another person is concealing contraband on or about her/his person.
- H. Strip Search: A search in which the individual is required to remove all clothing, jewelry and any material that is not a part of the person. A strip search will include the visual inspection of the ears, mouth, nose, anal, vaginal and genital areas, but does not include the touching, opening or probing of these areas by the person conducting the search. The person being searched may be required to bend or squat. Casts, bandages and prosthetic devices should be inspected by appropriate medical personnel.
- I. Trace Technology Equipment: Equipment which detects and measures the presence of vapors and microscopic particles

of narcotics and/or explosives, such as the itemiser and EntryScan 3 equipment.

- J. Trace Technology Equipment Coordinator: A staff member selected by the chief administrative officer, who is responsible for coordinating repairs to the authorized trace technology equipment, ordering supplies, training staff, trouble shooting difficulties and maintaining liaison with the manufacturer.
- K. Trace Technology Equipment Operator: A staff member trained to operate departmentally authorized trace technology equipment.
- L. Trace Technology Search: A search of a person, an object or an area in which departmentally authorized trace technology equipment is used to determine whether traces of narcotics or explosives are present.

III. PROCEDURES:

- A. All employees of the department, items in their possession and their vehicles are subject to search before and after entering departmental grounds.
 - 1. Employees will be present when the vehicles they are driving are being searched and if the narcotic detection dog unit is utilized in accordance with IS24-4.1 Security Dogs.
 - 2. All items employees may be carrying or have in their possession while they are on:
 - a. institutional premises are subject to search at any time; and
 - b. department property is subject to search upon reasonable suspicion or probable cause.
- B. Frisk searches may be conducted without cause, but must be conducted uniformly or by a systematic random selection process, as approved by the chief administrative officer and not by discriminatory or arbitrary selection of persons to be searched.
 - 1. Frisk searches of specific employees may be conducted only as authorized by the chief administrative officer when reasonable suspicion or probable cause exists.
 - 2. The only exception is that employees may undergo metal detector searches which may be conducted on a random or routine basis as well as upon reasonable suspicion or probable cause.

- C. Employees shall undergo trace technology equipment searches as directed by the division or department director. Trace technology equipment searches may be conducted without cause, but must be conducted uniformly or by a systematic random selection process, as approved by the chief administrative officer and not by discriminatory or arbitrary selection of persons to be searched.
1. If the trace technology equipment is at a worksite, employees will be subject to search by the trace technology equipment in concert with, or to augment other searches.
 2. Trace technology equipment searches may be conducted in accordance with D2-11.11 Employee Substance Abuse procedures.
 3. If the trace technology equipment search results in a positive hit, a confirmation search will be conducted. If the confirmation is positive:
 - a. request the staff member to wait;
 - b. notify the chief administrative officer;
 - c. the chief administrative officer may:
 - (1) direct the staff member to submit to a strip search;
 - (2) direct the staff member to submit a urine sample in accordance with D2-11.11 Employee Substance Abuse;
 - (3) direct a search of the employee's vehicle and belongings which are on department property;
 - (4) initiate a more in-depth investigation;
 - (5) notify the local law enforcement agency; and
 - (6) place the employee on administrative leave.
 - d. the trace technology equipment operator will submit a written report to the chief administrative officer.
- D. Strip searches of employees may be conducted only under the authorization of the chief administrative officer/designee when there is reasonable suspicion or probable cause and the strip search is necessary to prevent the conveyance of contraband into or out of the worksite.

1. When possible, local law enforcement agencies should be contacted to conduct the search.
2. When not possible, staff will conduct the search as follows:
 - a. prior to an employee strip search, the subject shall be informed of the type of search requested and shall sign a Search Authorization form (Attachment A); failure to comply with the authorization signature will subject the employee to possible disciplinary action;
 - b. the strip search will be conducted in a place which provides privacy;
 - c. the search will be conducted by 2 staff members of the same gender as the employee being searched;
 - d. the staff members conducting and witnessing the search will submit a written report to the chief administrative officer who, in turn, will submit a written report to the division director describing the scope of the search undertaken, the reason for the search, including any information provided which created reasonable suspicions and the results of the search, including a list of any contraband seized; and
 - e. a copy of all such reports shall be maintained in a special file within the office of the chief administrative officer for future reference.
3. Whenever probable cause exists to indicate an employee may be concealing contraband in a body cavity, the chief administrative officer/designee will contact appropriate law enforcement officials.
 - a. Any time a referral is made to a law enforcement agency, any information provided which created probable cause, the name of the person providing the information and the results of the search, including a list of all contraband seized, must be documented.
 - b. The names of confidential informants will only be placed in a special report which will only be maintained in the chief administrative officer's special file and will not be included in any other reports or copies.
 - c. A copy of all such reports shall be maintained

in a special file in the office of the chief administrative officer for future reference and a copy will be submitted to the division director.

IV. ATTACHMENTS:

- A. 931-0890 Search Authorization

V. REFERENCES:

- A. D2-11.11 Employee Substance Abuse
- B. D2-11.12 Itemiser
- C. IS20-1.3 Searches
- D. IS24-4.1 Security Dogs

VI. HISTORY:

- A. Original Effective Date: 07/01/98
- B. Revised Effective Date: 04/20/99
- C. Revised Effective Date: 06/09/03

MISSOURI DEPARTMENT OF CORRECTIONS

** DEPARTMENT MANUAL **

D5-4.3 Sex Offender Assessment Process - Probationers

July 6, 2002

Gary B. Kempker, Department Director

Effective Date

I. PURPOSE: To establish the eligibility criteria, screening, placement and release process for sex offender assessment.

A. AUTHORITY: 217.040, 558.018, 559.115, 566, 568, 573 and 589.015 RSMo

B. APPLICABILITY: This procedure applies to all divisions of the department and its employees.

II. DEFINITIONS:

A. Community Corrections Tracking System: A computer program designed to assist in placement of offenders in departmental programs and to aid in tracking the offender's movement.

B. Predatory Sexual Offender: An offender who has:

1. previously pled guilty to, or has been found guilty of the felony of forcible rape, rape, statutory rape 1st degree, forcible sodomy, sodomy, statutory sodomy 1st degree, or an attempt to commit any of the preceding crimes or child molestation 1st degree when a class B felony or sexual abuse when a class B felony;
2. has previously committed an act which would constitute one of these listed offenses, whether or not the act resulted in a conviction; or
3. has previously committed an act or acts against more than one victim which would constitute one of these offenses, whether or not the offender was charged with an additional offense or offenses as a result of such act or acts.

C. Pre-Sentence Investigation: A report prepared at the request of the court which provides information and an assessment of an offender's suitability for supervision.

D. Sex Offender Assessment: A specialized team in the

department that assesses sex offenders sentenced pursuant to 559.115 RSMo in order to determine the nature and extent of psychopathology, risk for reoffending and psychological treatment needs.

III. PROCEDURES:

A. Criteria for Assessment:

1. The offender must be convicted of a sexual offense as defined in 589.015, 566, 568 or 573 RSMo.
2. The offender must be sentenced pursuant to 559.115 RSMo with a recommendation for sex offender assessment as stipulated on the sentence and judgment papers.
3. Offenders who are convicted of the class B felony of sexual abuse and who are sentenced pursuant to 559.115 RSMo must be referred for assessment unless the offender is found to be a predatory sexual offender as defined in 558.018 RSMo.
4. A pre-sentence investigation must have been completed in reference to the current offense.
5. Offenders with serious mental health problems which would prevent them from being assessed are ineligible.
6. Offenses for which there is a statutory prohibition that does not allow the court to grant probation will be excluded as outlined in P3-5.3 Exclusionary Offenses-Probation.
7. If an offender is found to be a predatory sexual offender, she/he is ineligible for placement.

B. Screening, Referral and Placement:

1. When conducting the pre-sentence investigation, probation and parole staff should contact the Fulton Reception and Diagnostic Center sex offender assessment caseworker to ensure that the offender meets all eligibility criteria and to determine scheduling for assessment.
2. Probation and parole staff will forward to the diagnostic center the pre-sentence investigation and any other pertinent file material per P1-1.9 Transfer of Cases on all offenders recommended for assessment.
3. Upon arrival at the diagnostic center a modified classification analysis will be conducted on the offender.

4. The sex offender services caseworker at the Fulton Reception and Diagnostic Center will be responsible for screening all offenders referred for assessment to ensure that all eligibility criteria have been met.
5. If determined eligible, offenders will be placed on the docket for transfer to the Farmington Correctional Center (males) or the Women's Eastern Reception Diagnostic and Correctional Center (females).
6. If an offender is determined ineligible for assessment, the sex offender services caseworker will provide such notification to the institutional probation and parole officer who will notify the court of jurisdiction.

C. Discharge and Required Reports:

1. Prior to release from confinement, a report will be sent to the sentencing court advising of the assessment results, diagnosis, program participation and adjustment, risk factors for reoffending and community release plan as outlined in P6-4.2 Court Release Report.
 - a. The report will contain a recommendation for, or against, granting probation.
 - b. In the event circumstances change after the report is sent, a supplemental report will be expedited.
 - c. If the offender submits a home plan that is different than the approved plan as outlined in the pre-sentence investigation, but is within the State of Missouri, an Investigation Request (Attachment A) will be initiated by the appropriate probation and parole district office for investigation per P3-10.2 Inter-District Transfer - General Procedures.
2. If an offender is uncooperative with the sex offender services caseworker and/or sex offender assessment evaluator, a report will be sent to the institutional probation and parole officer.
 - a. The institutional probation and parole office will submit the report to the sentencing court to advise as to the nature and scope of the offender's behavior as outlined in P6-4.2 Court Release Report.
 - b. The offender will be scheduled for return to the diagnostic center for a full classification analysis and placement in an appropriate

institution per IS5-2.1 Offender Initial Classification and IS5-2.5 Offender Transfers.

3. If, during the assessment process, an offender becomes ineligible, the institutional probation and parole district administrator/designee will notify the sentencing court, as will the originating probation and parole district office.
 - a. The offender will then be scheduled for return to the diagnostic center for classification and placement per IS5-2.1 Offender Initial Classification and IS5-2.5 Offender Transfers.

D. Release/Transfer Process:

1. Probation Granted: Upon receiving notification of the court's disposition granting release on probation pursuant to 559.115 RSMo, the offender will be processed and released in accordance with procedures established in D5-8 Release of Offenders.
2. Probation Denied: If the court denies an offender release on probation, the offender will be scheduled for return to the diagnostic center for classification and placement in an appropriate institution per IS5-2.1 Offender Initial Classification and IS5-2.5 Offender Transfers.

IV. ATTACHMENTS:

- A. 931-2168 Investigation Request

V. REFERENCES:

- A. D5-8 Release of Offenders
- B. D5-8.4 120 Day Probation
- C. IS5-2.1 Offender Initial Classification
- D. IS5-2.5 Offender Transfers
- E. P1-1.9 Offender Field Transfer
- F. P3-5.3 Exclusionary Probation Offenses
- G. P3-10.2 General Procedures
- H. P6-4.2 Court Release Report

VI. HISTORY:

- A. Original Effective Date: 01/31/01
- B. Revised Effective Date: 07/06/02